

State of Iowa

Iowa

Administrative

Code

Supplement

Biweekly
December 9, 2015



STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Insurance Division[191]

Replace Chapter 15

Education Department[281]

Replace Analysis

Replace Chapter 12

Replace Reserved Chapters 13 and 14 with Reserved Chapter 13

Insert Chapter 14

Replace Chapter 15

Replace Chapter 25

Replace Chapter 98

Human Services Department[441]

Replace Chapter 41

Replace Chapter 46

Inspections and Appeals Department[481]

Replace Chapter 57

Iowa Public Information Board[497]

Replace Analysis

Replace Chapter 1

Homeland Security and Emergency Management Department[605]

Replace Chapters 1 to 4

Public Employment Relations Board[621]

Replace Analysis

Replace Chapter 6

Public Health Department[641]

Replace Analysis

Replace Chapter 1

Replace Chapter 3

Replace Chapter 15

Replace Chapter 95

Replace Chapter 97

Replace Chapters 131 and 132

Remove Reserved Chapters 145 to 149

Insert Chapter 145 and Reserved Chapters 146 to 149

Replace Chapter 203

CHAPTER 15
UNFAIR TRADE PRACTICES
[Prior to 10/22/86, Insurance Department[510]]

DIVISION I
SALES PRACTICES

191—15.1(507B) Purpose. This chapter is intended to establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B.

191—15.2(507B) Definitions.

“Advertisement” for the purpose of these rules shall be material designed to create public interest in insurance or an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

1. Printed and published material, audio and visual material, and descriptive literature of an insurer or producer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards, computer on-line networks and similar displays; descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and sales talks, presentations, and material for use by producers.

2. However, for the purpose of these rules “advertisement” shall not include: communications or materials used within an insurer’s own organization and not intended for dissemination to the public; communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy; and a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

“Aftermarket crash parts” means replacement parts as defined in Iowa Code section 537B.4.

“Certificate” means a statement of the coverage and provisions of a policy of group accident and sickness insurance which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

“Duplicate Medicare supplement insurance” shall mean the sale or the attempt to knowingly sell to an individual a policy of insurance designed to supplement Medicare benefits as provided in The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as then constituted or later amended when the individual is already insured under such a policy.

“Duplication” means policies of the same coverage type according to minimum standards classifications outlined in 191 IAC 36.6(514D) which overlap to the extent that a reasonable individual would not consider the ownership of the policies to be beneficial.

“Exception” for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

“Illustrated scale” shall mean a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policyholder than the lesser of the disciplined current scale or the currently payable scale as defined in 191 IAC 14.4(507B).

“Institutional advertisement” means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance.

“Insurer” shall mean any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s, fraternal benefit society, and any other legal entity engaged in the business of insurance.

“Invitation to contract” means an advertisement for accident and sickness insurance that is neither an invitation to inquire nor an institutional advertisement.

“Invitation to inquire” means an advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss

for which benefits are payable. An invitation to inquire may not refer to cost but may contain the dollar amount of benefits payable and the period of time during which benefits are payable.

“Limitation” for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

“Limited benefit health coverage” shall have the same meaning as defined in 191—subrule 36.6(10).

“Person” shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including insurance producers and adjusters. *“Person”* shall also mean any corporation operating under the provisions of Iowa Code chapter 514 and any benevolent association as defined and operated under Iowa Code chapter 512A. For purposes of this chapter, corporations operating under the provisions of Iowa Code chapter 514 and Iowa Code chapter 512A shall be deemed to be engaged in the business of insurance.

“Policy” shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for insurance benefits.

“Preneed funeral contract or prearrangement” shall mean an agreement by or for an individual before the individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

“Producer” shall mean a person who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance for risks residing, located or to be performed in this state.

“Prominently” or *“conspicuously”* means that the information to be disclosed will be presented in a manner that is noticeably set apart from other information or images in the advertisement.

“Reduction” for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

“Twisting” shall mean any action by a producer or insurer to induce or attempt to induce any individual to lapse, forfeit, surrender, terminate, retain, assign, borrow, or convert a policy or an annuity in order that such individual procure another policy or annuity, when such action would operate to the overall detriment of the interests of the individual.

191—15.3(507B) Advertising.

15.3(1) *Form and content of advertisements.* The format and content of an advertisement shall be truthful and sufficiently complete and clear to avoid deception or the capacity or tendency to misrepresent or deceive. Whether an advertisement has a capacity or tendency to misrepresent or deceive shall be determined by the overall impression that the advertisement may be reasonably expected to create upon an individual in the segment of the public to which it is primarily directed and who has average education, intelligence and familiarity with insurance terminology for products in that market.

Information regarding exceptions, limitations, reductions and other restrictions required to be disclosed by this rule shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

15.3(2) *Prohibited terms and disclosure requirements for health insurance.*

a. No advertisement shall contain or use words or phrases such as “all”; “full”; “complete”; “comprehensive”; “unlimited”; “up to”; “as high as”; “this policy will help fill some of the gaps that Medicare and your present insurance leave out”; “this policy will help to replace your income” (when used to express loss of time benefits); or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

b. No advertisement shall contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even preexisting conditions are covered after two years.” Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.

c. No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as “tax free,” “extra cash” and substantially similar

phrases which have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable an individual to make a profit from being hospitalized.

d. No advertisement shall use the words “only”; “just”; “merely”; “minimum” or similar words or phrases to describe the applicability of any exceptions and reductions, such as: “This policy is subject to the following minimum exceptions and reductions.”

e. An advertisement which refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

f. An advertisement may contain a brief description of coverage in an invitation to inquire so long as it is limited to a brief description of the loss for which benefits are payable. The brief description may also contain the dollar amount of benefits payable or the period of time during which benefits are payable, or both, but may not refer to the cost of the policy.

g. An advertisement for a policy which contains a waiting, elimination, probationary, or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss shall prominently disclose the existence of such periods.

h. An invitation to inquire shall contain a provision in the following or substantially similar form: “This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable].”

15.3(3) *Prohibited terms in life insurance and annuity policies.* No advertisement for a life insurance or annuity policy shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “retirement plan,” or other similar term which has the capacity or tendency to mislead an insured or prospective insured to believe that the insurer is offering something other than an insurance policy or some benefit not available to other individuals of the same class and equal expectation of life. An advertisement shall not state that there are “no more premiums” or that premiums will “vanish” or “disappear” or use similar terms when such statement is not based on the guaranteed rates.

15.3(4) *Exclusions, limitations, exceptions and reductions.* Words and phrases used in an advertisement to describe policy exclusions, limitations, exceptions and reductions shall clearly, prominently and accurately indicate the negative or limited nature of the exclusions, limitations, exceptions and reductions.

An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: “THIS IS A LIMITED POLICY,” “THIS POLICY PROVIDES LIMITED BENEFITS,” or “THIS IS A CANCER-ONLY POLICY.”

15.3(5) *Use of statistics.* An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

15.3(6) *Introductory, initial or special offers.*

a. An advertisement shall not directly or by implication represent that a policy is an introductory, initial or special offer, or that a person will receive advantages not available at a later date, or that the offer is available only to a specified group of persons, unless such is the fact.

b. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in each portion of the advertisement where the initial reduced premium appears. This paragraph shall not apply to annual renewable term policies.

15.3(7) Testimonials or endorsements by third parties.

a. Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules.

b. If the person making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." This rule does not require disclosure of union "scale" wages required by union rules if the payment is actually for such "scale" for TV or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of TV or radio advertisements constitutes compensation and requires disclosure. This rule does not apply to an institutional advertisement which has as its sole purpose the promotion of the insurer.

c. An advertisement which states or implies that an insurer or an insurance product has been approved or endorsed by any person or other organizations must also disclose any proprietary or other relationship between the parties.

15.3(8) Disparaging and incomplete comparisons and statements. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of noncomparable policies of other insurers, and shall not disparage other insurers, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance. An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of an insurer in the insurance business.

15.3(9) Identity of insurer.

a. The name of the actual insurer shall be clearly identified in all advertisements for a particular policy. An advertisement shall not use a trade name, insurance group designation, name of a parent company, name of a particular company division, service mark, slogan, symbol or other device which would have the capacity and tendency to misrepresent the true identity of an insurer.

b. No advertisement shall use any combination of words, symbols, or physical materials which by its content, phraseology, shape, color or other characteristics is so similar to combinations of words, symbols, or physical materials used by a municipal, state or federal agency that it would lead a reasonable individual to believe that the advertisement is approved, endorsed or accredited by an agency of the municipal, state, or federal government.

15.3(10) Disclosure requirements for life insurance and annuities.

a. An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed.

b. An advertisement for a policy with nonlevel premiums shall prominently describe the premium changes.

c. Dividends.

(1) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends for an annuity are illustrated, the illustration must be based on the insurer's illustrated scale and must contain a statement that the illustration is not to be construed as a guarantee or estimate of dividends to be paid in the future.

(2) An advertisement shall not state or imply that the illustrated scale under a participating policy or pure endowments will be or can be sufficient at any future time to ensure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains (1) what benefits or coverage would be provided at such time and (2) under what conditions this would occur.

d. An advertisement of a deferred annuity shall not state the net premium accumulation interest rate unless it discloses in close proximity thereto and with equal prominence the actual relationship between the gross and net premiums.

e. An advertisement that states the projected values of a policy must use the guaranteed interest rates in determining such projected values and, in addition, may show other projected values based on interest rates which comply with the illustrated scale. Any statements containing or based upon an interest rate higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable statements containing or based upon the guaranteed accumulation interest rates. If the policy does not contain a provision for a guaranteed interest rate, any advertisement showing projected values must clearly state that the rates are not guaranteed. This subrule does not apply to an illustration or supplemental illustration subject to the provisions of the Life Illustrations Model Regulation, 191 IAC 14.

f. An advertisement or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such advertisement may be used for the purpose of demonstrating the cash flow pattern of a policy if such advertisement is accompanied by a statement disclosing that the advertisement does not recognize that, because of interest, a dollar in the future may not have the same value as a dollar at the time of the presentation.

g. An advertisement of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are also shown separately in close proximity thereto.

h. A statement regarding the use of life insurance cost indexes shall include an explanation that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

i. A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the insurer's illustrated scale and is not guaranteed.

15.3(11) *Special offers.* Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had the recipient's eligibility for the insurance individually determined in advance when the advertisement is directed to all individuals in a group or to all individuals whose names appear on a mailing list.

15.3(12) *Disclosure requirement.* In an advertisement that is an invitation to contract for an accident and sickness insurance policy that is guaranteed renewable, cancelable or renewable at the option of the company, the advertisement shall disclose that the insurer has the right to increase premium rates if the policy so provides.

15.3(13) *Group or quasi-group implications.*

a. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and, as members, enjoy special rates or underwriting privileges, unless that is the fact.

b. This rule prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements which state or imply that their class membership entitles the member to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

c. Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

d. An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct application required need not be on a separate document or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly,

the use of terms such as “enroll” or “join” to imply group or blanket insurance coverage is prohibited when that is not the fact.

e. Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

15.3(14) Compliance with Medicare supplement advertising rules. Insurers and producers shall comply with the Medicare supplement advertising rules set forth in 191—Chapter 37, Division II. [ARC 7964B, IAB 7/15/09, effective 8/19/09]

191—15.4(507B) Life insurance cost and benefit disclosure requirements.

15.4(1) The definition of terms applicable to this rule and its appendices will be found in Appendix I.

15.4(2) Except as hereafter exempted, this rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This rule shall apply to any insurer issuing life insurance contracts including fraternal benefit societies.

Unless otherwise specifically included, this rule shall not apply to:

- a.* Annuities.
- b.* Credit life insurance.
- c.* Group life insurance, except for disclosures relating to preneed funeral contracts or prearrangements as provided herein. These disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy.
- d.* Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).
- e.* Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

15.4(3) Prior to or at delivery of a life insurance policy, an insurer or producer shall provide the prospective purchaser the following:

- a.* A life insurance buyer’s guide in the current form prescribed by the National Association of Insurance Commissioners or language approved by the commissioner of insurance, and
- b.* A policy summary as defined in Appendix I.

15.4(4) A policy summary is not required to include information available in the policy form or illustration. If an illustration subject to the provisions of 191 IAC 14, Life Insurance Illustrations Model Regulation, is used in the sale of a policy, delivery of a policy summary is not required. A policy summary may not include any element that is not guaranteed.

191—15.5(507B) Health insurance sales to individuals 65 years of age or older. The sale of duplicate Medicare supplement insurance is prohibited.

191—15.6(507B) Preneed funeral contracts or prearrangements. Rescinded ARC 2258C, IAB 11/25/15, effective 12/30/15.

191—15.7(507B) Twisting prohibited. No insurer or producer shall engage in the act of twisting.

191—15.8(507B) Producer responsibilities.

15.8(1) Required disclosures. A producer shall inform the prospective purchaser, prior to commencing an insurance sales presentation, that the producer is acting as an insurance producer and inform the prospective purchaser of the producer’s full name and the full name of the insurance company which the producer will represent in the insurance sales presentation. In sales situations in which a producer is not involved, the insurer shall identify its full name to a prospective purchaser.

15.8(2) Improper sales tactics.

- a.* Producers and insurers shall not employ any method of marketing or tactic which uses undue pressure, force, fright, threat, whether explicit or implied, to solicit the purchase of insurance.
- b.* A producer shall not:

(1) Execute a transaction for an insurance customer without authorization by the customer to do so; or

(2) Commit any act which shows that the producer has exerted undue influence over a person.

c. Producers and insurers shall not, without good cause:

(1) Fail or refuse to furnish any individual, upon reasonable request, information to which that individual is entitled, or to respond to a formal written request or complaint from any individual.

(2) Sell an insurance policy or rider to an individual which is a duplication of a policy or rider which the individual owns or for which the individual has applied at the time of the sale.

15.8(3) *Prohibited designations and fees.*

a. When an insurance producer is engaged only in the sale of insurance policies or annuities, the insurance producer shall not hold the producer out, directly or indirectly, to the public as a “financial planner,” “investment adviser,” “consultant,” “financial counselor,” or any other specialist solely engaged in the business of financial planning or giving advice relating to investments, insurance, real estate, tax matters or trust and estate matters. This provision does not preclude insurance producers who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance.

b. An insurance producer shall not engage in the business of financial planning without disclosing to the client prior to the execution of the agreement required by paragraph “c” or to the solicitation of the sale of a product or service that the producer is also an insurance producer and that a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case. The disclosure requirement under this paragraph may be met by including the disclosure in any disclosure required by federal or state securities law.

c. An insurance producer shall not charge fees other than commissions unless such fees are based upon a written agreement signed by the client in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the client at the time the agreement is signed by the client. The agreement must specifically state:

(1) The service for which the fee is to be charged;

(2) The amount of the fee to be charged or how it will be determined or calculated; and

(3) That the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

The insurance producer shall retain a copy of the agreement for not less than three years after completion of services, and a copy shall be available to the commissioner upon request.

d. Producers shall not charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies. This prohibition shall not apply to assigned risk policies and commercial property and casualty policies. Any additional fee that a producer intends to charge for assigned risk policies and commercial property and casualty policies must be fully disclosed to the insured.

e. Producers shall comply with rule 191—10.19(522B) in using senior-specific certifications and professional designations in the sale of life insurance and annuities.

15.8(4) *Suitability.* A producer shall not recommend to any person the purchase, sale or exchange of any life insurance policy, or any rider, endorsement or amendment thereto, without reasonable grounds to believe that the transaction or recommendation is not unsuitable for the person based upon reasonable inquiry concerning the person’s insurance objectives, financial situation and needs, age and other relevant information known by the producer. For purposes of this subrule, when a producer recommends a group life insurance policy, “person” shall refer to the intended group policyowner.

15.8(5) *Prohibited acts.*

a. For purposes of this subrule:

“*Gift*” means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

“*Immediate family*” shall include parent, mother-in-law, father-in-law, spouse, former spouse, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, child and stepchild. In

addition, “immediate family” shall include any other person who is supported, directly or indirectly, to a material extent by a producer.

“*Loan*” means an agreement to advance property, including but not limited to money, in return for the promise that payment will be made for use of the property.

b. A producer shall not:

(1) Solicit or accept, directly or indirectly, at any time, a personal loan from an insurance customer that in the aggregate exceeds \$250, unless the customer is:

1. A bank, savings and loan, credit union or other recognized lending entity; or
2. A member of the producer’s immediate family.

(2) Solicit or accept, directly or indirectly, at any time, a gift to the producer or to a member of the producer’s immediate family from an insurance customer that in the aggregate exceeds \$250, unless the customer is a member of the producer’s immediate family. A gift to a member of the producer’s immediate family shall be included in calculating the aggregate amount. A gift received by a member of the producer’s immediate family from a customer that is not a member of the producer’s immediate family in excess of the aggregate amount shall be deemed a violation of this subrule by the producer.

(3) Solicit or accept being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity of a customer, unless the customer is a member of the producer’s immediate family.

(4) Evade or otherwise violate the spirit of this subrule by terminating a producer relationship with an insurance customer for the purpose of soliciting or accepting a loan or a gift, or for the purpose of being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity that the producer otherwise would have been prohibited from soliciting or accepting by this subrule. A producer will not be in violation of this subrule if the producer has made a bona fide termination of the producer relationship with the insurance customer and has conducted no insurance or other business with the insurance customer for a period of three years.

c. Transactions which involve nominal interim ownership immediately precedent to transfer of ownership into a trust are exempt from this subrule.

191—15.9(507B) Right to return a life insurance policy or annuity (free look). The owner of an individual policy has the right, within ten days after receipt of a life insurance policy or annuity, to a free-look period. During this period, the policyowner may return the life insurance policy or annuity to the insurer at its home office, branch office, or to the producer through whom it was purchased. If so returned, the premium paid will be promptly refunded, the policy or annuity voided and the parties returned to the same position as if a policy or annuity had not been issued. If the transaction involved a replacement, the length of the free-look period will be determined according to 191—Chapter 16.

If the transaction involved a variable product, the amount to be refunded shall be determined according to the policy language. The calculations must comply with the relevant rule in either 191—Chapter 16, Replacement of Life Insurance and Annuities, or 191—Chapter 33, Variable Life Insurance Model Regulation.

191—15.10(507B) Uninsured/underinsured automobile coverage—notice required.

15.10(1) Contents of notice. Automobile insurance policies delivered in this state shall include a notice which contains and is limited to the following language:

NOTICE REGARDING UNINSURED/UNDERINSURED COVERAGE

Uninsured/underinsured coverage does not cover damage done to your vehicle. It provides benefits only for bodily injury caused by an uninsured or underinsured motorist. If you wish to be insured for damage done to your vehicle, you must have collision coverage. Please check your policy to make sure you have the coverage desired.

15.10(2) Form of notice. Notice may be provided on a separate form or may be stamped on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the notice in this rule is required by the insurance division.

191—15.11(507B) Unfair discrimination.**15.11(1) *Sex discrimination.***

a. A contract shall not be denied to an individual based solely on that individual's sex or marital status. No benefits, terms, conditions or type of coverage shall be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured except to the extent permitted under the Iowa Code or Iowa Administrative Code. An insurer may consider marital status for the purpose of defining individuals eligible for dependents' benefits. This subrule does not apply to group life insurance policies or group annuity contracts issued in connection with pension and welfare plans which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

b. Specific examples of practices prohibited by this subrule include, but are not limited to, the following:

(1) Denying coverage to individuals of one sex employed at home, employed part-time or employed by relatives when coverage is offered to individuals of the opposite sex similarly employed.

(2) Denying policy riders to persons of one sex when the riders are available to persons of the opposite sex.

(3) Denying a policy under which maternity coverage is available to an unmarried female when that same policy is available to a married female.

(4) Denying, under group contracts, dependent coverage to spouses of employees of one sex, when dependent coverage is available to spouses of employees of the opposite sex.

(5) Denying disability income coverage to employed members of one sex when coverage is offered to members of the opposite sex similarly employed.

(6) Treating complications of pregnancy differently from any other illness or sickness under the contract.

(7) Restricting, reducing, modifying, or excluding benefits relating to coverage involving the genital organs of only one sex.

(8) Offering lower maximum monthly benefits to members of one sex than to members of the opposite sex who are in the same underwriting and occupational classification under a disability income contract.

(9) Offering more restrictive benefit periods and more restrictive definitions of disability to members of one sex than to members of the opposite sex in the same underwriting and occupational classifications under a disability income contract.

(10) Establishing different contract conditions based on gender which limit the benefit options a policyholder may exercise.

(11) Limiting the amount of coverage due to an insured's or prospective insured's marital status unless such limitation applies only to coverage for dependents and is uniformly applied to males and females.

c. When rates are differentiated on the basis of sex, an insurer must, upon the request of the commissioner of insurance, justify the rate differential in writing to the satisfaction of the commissioner. All rates shall be based on sound actuarial principles or a valid classification system and actual experience statistics, if available.

d. This subrule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership. If a fraternal benefit society does, however, admit members of both sexes, this subrule is applicable to the insurance benefits available to its members.

15.11(2) *Physical or mental impairment.* No contract, benefits, terms, conditions or type of coverage shall be denied, restricted, modified, excluded or reduced solely on the basis of physical or mental impairment of the insured or prospective insured except where based on sound actuarial principles or related to actual or reasonably anticipated experience. For purposes of this subrule, both blindness and partial blindness shall be considered a physical impairment.

15.11(3) *Income discrimination.* An insurer shall not refuse to issue, limit the amount or apply different rates to individuals of the same class in the sale of individual life insurance based solely upon the prospective insured's legal source or level of income, unless such action is based on sound actuarial

principles or is related to actual or reasonably anticipated experience. The portion of this subrule pertaining to level of income does not:

- a.* Apply to the sale of disability income insurance of any kind or of any insurance designed to protect against economic loss due to a disruption in the regular flow of an individual's earned income;
- b.* Prohibit the sale of any insurance or annuity which is made available only to employees;
- c.* Prohibit basing the amount of insurance sold to an employee on a multiple or a percentage of the employee's salary or prohibit limiting availability to employees who have achieved a certain employment status as defined by the employer;
- d.* Prohibit insurers from providing life or health insurance as an incidental benefit through a qualified pension plan;
- e.* Prohibit insurers from applying suitability standards which include income as a factor in the sale of any life insurance or annuity products;
- f.* Prohibit insurers from establishing maximum or minimum amounts of insurance that will be issued to individuals so long as this is pursuant to a preexisting specialized marketing strategy which the insurer can demonstrate is related to the financial capacity of the insurer to write business or to bona fide transaction costs.

15.11(4) *Domestic abuse.* A contract shall not be denied to an individual based solely on the fact that such individual has been or is believed to have been a victim of domestic abuse as defined in Iowa Code section 236.2.

15.11(5) *Genetic information.* Any action by an insurer that is not in compliance with Title I of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110-233, 122 Stat. 881) shall be considered an unfair trade practice and shall be subject to the penalties of Iowa Code chapter 507B and of these rules.

15.11(6) *Discrimination relating to children under the age of 19.* It is an unfair trade practice to:

- a.* Encourage individuals or groups to refrain from filing an application with an insurer for coverage for a child under the age of 19 because of the child's health status, claims experience, industry, occupation, or geographic location;
- b.* Encourage or direct children under the age of 19 to seek coverage from another insurer because of the child's health status, claims experience, industry, occupation, or geographic location; and
- c.* Encourage an employer to exclude an employee from coverage.

[ARC 7796B, IAB 5/20/09, effective 5/22/09; ARC 7965B, IAB 7/15/09, effective 8/19/09; ARC 9498B, IAB 5/4/11, effective 6/8/11]

191—15.12(507B) Testing restrictions of insurance applications for the human immunodeficiency virus.

15.12(1) *Written release.* No insurer shall obtain a test of any individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual to be tested provides a written release on a form which contains the following information:

- a.* A statement of the purpose, content, use, and meaning of the test.
- b.* A statement regarding disclosure of the test results including information explaining the effect of releasing the information to an insurer.
- c.* A statement of the purpose for which test results may be used.

15.12(2) *Form.* A preapproved form is provided in Appendix II. An insurer wishing to utilize a form which deviates from the language in the appendix to these rules shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.

15.12(3) *Test results.* A person engaged in the business of insurance who receives results of a positive human immunodeficiency virus (HIV) test in connection with an application for insurance shall report those results to a physician or alternative testing site of the applicant's or policyholder's choice or, if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.

191—15.13(507B) Records maintenance.**15.13(1) *Complaint and business records.***

a. An insurer shall maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner.

b. An insurer shall maintain a complete record of all the complaints received since the date of its last examination by the insurer's state of domicile or port-of-entry state. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. Appendix IV sets forth the minimum information required to be contained in the complaint record.

15.13(2) *Insurer's control over advertisements.* Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements which explain a particular policy. All such advertisements, whether written, created, designed or presented by the insurer or its appointed producer, shall be the responsibility of the insurer whose particular policies are so advertised. As part of this requirement, each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its policies, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the insurance division. All such advertisements shall be maintained for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

15.13(3) *Education and training materials.* Every insurer shall establish and maintain a system of control over the content and form of all material used by the insurer or any of its employees for the recruitment, training, and education of producers in the sale of insurance. Upon request, copies of these materials shall be made available to the commissioner.

191—15.14(505,507B) Enforcement section—cease and desist and penalty orders.

15.14(1) If, after hearing, the commissioner determines that a person has engaged in an unfair trade practice in violation of these rules, an unfair method of competition, or an unfair or deceptive act or practice in violation of Iowa Code chapter 507B, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring the person to cease and desist from engaging in such method of competition, act or practice. The commissioner also may order one or more of the following:

a. Payment of a civil penalty of not more than \$1,000 for each act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known that the actions were in violation of these rules or of Iowa Code chapter 507B, in which case the penalty shall be not more than \$5,000 for each act or violation, but not to exceed an aggregate penalty of \$50,000 in any one six-month period. If the commissioner finds that a violation of these rules or of Iowa Code chapter 507B was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer;

b. Suspension or revocation of an insurer's certificate of authority or the producer's license if the insurer or producer knew or reasonably should have known that it was in violation of these rules or of Iowa Code chapter 507B;

c. Payment of interest at the rate of 10 percent per annum if the commissioner finds that the insurer failed to pay interest as required under Iowa Code section 507B.4, subsection 12;

d. Full disclosure by the insurer of all terms and conditions of the policy to the policyowner;

e. Payment of the costs of the investigation and administrative expenses related to any act or violation. The commissioner may retain funds collected pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

15.14(2) Any person who violates a cease and desist order of the commissioner while such order is in effect may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or both of the following:

- a. A civil penalty of not more than \$10,000 for each and every act or violation.
- b. Suspension or revocation of such person's license.

191—15.15 to 15.30 Reserved.

DIVISION II
CLAIMS

191—15.31(507B) General claims settlement guidelines. No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

191—15.32(507B) Prompt payment of certain health claims. Effective July 1, 2002, the following provisions apply:

15.32(1) Definitions and scope.

- a. For purposes of this rule, the following definitions apply:

“Circumstance requiring special treatment” means:

1. A claim that an insurer has a reasonable basis to suspect may be fraudulent or that fraud or a material misrepresentation may have occurred under the benefit certificate or policy or in obtaining such certificate or policy; or
2. A matter beyond the insurer's control, such as an act of God, insurrection, strike or other similar labor dispute, fire or power outage or, for a group-sponsored health plan, the failure of the sponsoring group to pay premiums to the insurer in a timely manner; or
3. Similar unique or special circumstances which would reasonably prevent an insurer from paying an otherwise clean claim within 30 days.

“Clean claim” means clean claim as defined in 2001 Iowa Acts, chapter 69, section 8(2b).

“Coordination of benefits for third-party liability” means a claim for benefits by a covered individual who has coverage under more than one health benefit plan.

“Insurer” means insurer as defined in 2001 Iowa Acts, chapter 69, section 7.

“Properly completed billing instrument” means:

1. In the case of a health care provider that is not a health care professional:
 - The Health Care Finance Administration (HCFA) Form 1450, also known as Form UB-92, or similar form adopted by its successor Centers for Medicare/Medicaid Services (CMS) as adopted by the National Uniform Billing Committee (NUBC) with data element usage prescribed in the UB-92 National Uniform Billing Data Elements Specification Manual, or
 - The electronic format for institutional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; or
2. In the case of a health care provider that is a health care professional:
 - The HCFA Form 1500 paper form or its successor as adopted by the National Uniform Claim Committee (NUCC) and further defined by the NUCC in its implementation guide; or
 - The electronic format for professional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; and
3. Any other information reasonably necessary for an insurer to process a claim for benefits under the benefit certificate or policy with the insured contract.

- b. Scope. This subrule applies to claims submitted to an insurer as defined above on or after July 1, 2002, and is limited to policies issued, issued for delivery, or renewed in this state.

15.32(2) Insurer duty to promptly pay claims and pay interest.

- a. Insurers subject to this subrule shall either accept and pay or deny a clean claim for health care benefits under a benefit certificate or policy issued by the insurer within 30 days after the insurer's receipt of such claim. A clean claim is considered to be paid on the date upon which a check, draft, or other valid negotiable instrument is written. Insurers shall implement procedures to ensure that these payments are promptly delivered.

b. Insurers or entities that administer or process claims on behalf of an insurer who fail to pay a clean claim within 30 days after the insurer's receipt of a properly completed billing instrument shall pay interest. Interest shall accrue at the rate of 10 percent per annum commencing on the thirty-first day after the insurer's receipt of all information necessary to establish a clean claim. Interest will be paid to the claimant or provider based upon who is entitled to the benefit payment.

c. Insurers shall have 30 days from the receipt of a claim to request additional information to establish a clean claim. An insurer shall provide a written or electronic notice to the claimant or health care provider if additional information is needed to establish a clean claim. The notice shall include a full explanation of the information necessary to establish a clean claim.

d. Effective January 1, 2003, when a claim involves coordination of benefits, an insurer is required to comply with the requirements of this subrule when that insurer's liability has been determined.

15.32(3) *Certain insurance products exempt.* Claims paid under the following insurance products are exempt from the provisions of this subrule: liability insurance, workers' compensation or similar insurance, automobile or homeowners insurance, medical payment insurance or disability income insurance.

This rule is intended to implement Iowa Code sections 507B.4A and 514G.111 and 2015 Iowa Acts, House File 632, section 21.

[ARC 2296C, IAB 12/9/15, effective 1/13/16]

191—15.33(507B) Audit procedures for medical claims.

15.33(1) *Prohibitions.* This rule applies to all claims paid on or after January 1, 2002:

a. Absent a reasonable basis to suspect fraud, an insurer may not audit a claim more than two years after the submission of the claim to the insurer. Nothing in this rule prohibits an insurer from requesting all records associated with the claim.

b. Absent a reasonable basis to suspect fraud, an insurer may not audit a claim with a billed charge of less than \$25.

15.33(2) *Standards.*

a. In auditing a claim, the insurer must make a reasonable effort to ensure that the audit is performed by a person or persons with appropriate qualifications for the type of audit being performed.

b. In auditing a claim, the auditor must use the coding guidelines and instructions that were in effect on the date the medical service was provided.

15.33(3) *Contents of audit request.* All correspondence regarding the audit of a claim must include the following information:

- a. The name, address, telephone number and contact person of the insurer conducting the audit,
- b. The name of the entity performing the audit if not the insurer,
- c. The purpose of the audit, and
- d. If included in the audit, the specific coding or billing procedure that is under review.

This rule is intended to implement Iowa Code section 507B.4, subsection 9, as amended by 2001 Iowa Acts, chapter 69.

191—15.34 to 15.40 Reserved.

191—15.41(507B) Claims settlement guidelines for property and casualty insurance. For purposes of this rule, "insurer" means property and casualty insurers.

15.41(1) An insurer shall fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.

15.41(2) Within 30 days after receipt by the insurer of properly executed proofs of loss, the first-party property claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing, and the claim file of the insurer shall contain documentation of the denial.

When there is a reasonable basis supported by specific information available for review by the commissioner that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

15.41(3) If the insurer needs more time to determine whether a first-party claim should be accepted or denied, the insurer shall so notify the first-party claimant within 30 days after receipt of the proof of loss and give the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

When there is a reasonable basis supported by specific information available for review by the commissioner for suspecting that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

15.41(4) Insurers shall not fail to settle first-party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

15.41(5) No insurer shall make statements indicating that the rights of a third-party claimant may be impaired if a form or release, other than a release to obtain medical records, is not completed within a given period of time unless the statement is given for the purpose of notifying the third-party claimant of the provision of a statute of limitations.

15.41(6) The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within 30 days of affirmation of liability, if the amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments which are not in dispute under one of the coverages and where the payee is known should be tendered within 30 days if such payment would terminate the insurer's known liability under that coverage.

15.41(7) No producer shall conceal from a first-party claimant benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

15.41(8) A claim shall not be denied on the basis of failure to exhibit property unless there is documentation of breach of the policy provisions to exhibit or cooperate in the claim investigation.

15.41(9) No insurer shall deny a claim based upon the failure of a first-party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition. An insurer may deny a claim if the claimant's failure to give written notice after being requested to do so is so unreasonable as to constitute a breach of the claimant's duty to cooperate with the insurer.

15.41(10) No insurer shall indicate to a first-party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract.

15.41(11) No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

191—15.42(507B) Acknowledgment of communications by property and casualty insurers. For purposes of this rule, "insurer" means property and casualty insurers.

15.42(1) Upon receiving notification of a claim, an insurer shall, within 15 days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgment is made by means other than in writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated.

15.42(2) Upon receipt of any inquiry from the Iowa insurance division regarding a claim, an insurer shall, within 21 days of receipt of such inquiry, furnish the division with an adequate response to the inquiry, in duplicate.

15.42(3) The insurer shall reply within 15 days to all pertinent communications from a claimant which reasonably suggest that a response is expected.

15.42(4) Upon receiving notification of claim, an insurer shall promptly provide necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this subrule within 15 days of notification of a claim shall constitute compliance with subrule 15.42(1).

191—15.43(507B) Standards for settlement of automobile insurance claims.

15.43(1) Loss calculation and deviation guidelines.

a. Loss calculation. When the insurance policy provides for the adjustment and settlement of first-party automobile total losses on the basis of actual cash value or replacement with another automobile of like kind and quality, one of the following methods shall apply:

(1) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. All applicable taxes, license fees and other fees incident to the transfer of evidence of ownership of the automobile shall be paid by the insurer, at no cost to the insured, other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:

1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last 90 days to consumers in the local market area; or

2. The cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90 days to consumers when comparable automobiles are not available in the local market area; or

3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area when the cost of comparable automobiles is not available; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:

- The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area.

- The source's database shall produce values for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for such vehicles.

- The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to ensure statistical validity.

(3) If the insurer is notified within 35 days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle for such market value, the insured shall have a right of recourse. The insurer shall reopen its claim file and the following procedure(s) shall apply:

1. The insurer may locate a comparable vehicle by the same manufacturer, same or newer year, similar body style and similar options and price range for the insured for the market value determined by the insurer at the time of settlement. Any such vehicle must be available through a licensed dealer; or

2. The insurer shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured; or

3. The insurer may elect to offer a replacement in accordance with the provisions set forth in subrule 15.43(1); or

4. The insurer may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or a common law.

The insurer is not required to take action under this subrule if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same or newer year, similar body style and similar options in as good or better condition as the total-loss vehicle which could have been purchased for the market value determined by the insurer before applicable deductions. The documentation shall include the vehicle identification number.

b. Deviation. When a first-party automobile total loss is settled on a basis which deviates from the methods described in paragraph “a,” the deviation must be supported by documentation giving particulars of the automobile’s condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first-party claimant.

15.43(2) Where liability and damages are reasonably clear, an insurer shall not recommend that third-party claimants make claims under their own policies solely to avoid paying claims under the insurer’s policy.

15.43(3) The insurer shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

15.43(4) The insurer shall, upon the claimant’s request, include the first-party claimant’s deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses shall be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro-rata share of the allocated loss adjustment expense.

15.43(5) Vehicle repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which the insured obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall (1) pay the difference between the written estimate and a higher estimate obtained by the insured, or (2) promptly provide the insured with the name of at least one repair shop that will make the repairs for the amount of the written estimate. If the insurer designates only one or two such repair shops, the insurer shall ensure that the repairs are performed according to automobile industry standards. The insurer shall maintain documentation of all such communications.

15.43(6) When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

15.43(7) When the insurer elects to repair an automobile, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy, within a reasonable period of time.

15.43(8) Storage and towing. The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges. The insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment. Unless the insurer has provided an insured with the name of a specific towing company prior to the insured’s use of another towing company, the insurer shall pay all reasonable towing charges.

15.43(9) Betterment. Betterment deductions are allowable only if the deductions reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle. Betterment deductions must be measurable, itemized, specified as to dollar amount and documented in the claim file.

15.43(10) Diminished value. Rescinded IAB 4/28/04, effective 4/7/04.

191—15.44(507B) Standards for determining replacement cost and actual cost values.

15.44(1) *Replacement cost.* When the policy provides for the adjustment and settlement of first-party losses based on replacement cost, the following shall apply:

a. When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss. The insured shall not have to pay for betterment or any other cost except for the applicable deductible.

b. When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace as much of the item as is necessary to result in a reasonably uniform appearance within the same line of sight. This subrule applies to interior and exterior losses. Exceptions may be made on a case-by-case basis. The insured shall not bear any cost over the applicable deductible, if any.

15.44(2) *Actual cash value.*

a. When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine the actual cash value. “Actual cash value” means replacement cost of property at time of loss, less depreciation, if any. Alternatively, an insurer may use market value in determining actual cash value. Upon the insured’s request, the insurer shall provide a copy of the claim file worksheet(s) detailing any and all deductions for depreciation.

b. In cases in which the insured’s interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured’s request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

15.44(3) *Applicability.* This rule does not apply to automobile insurance claims.

191—15.45(507B) Guidelines for use of aftermarket crash parts in motor vehicles.

15.45(1) *Identification.* All aftermarket crash parts supplied for use in this state shall comply with the identification requirements of Iowa Code section 537B.4.

15.45(2) *Like kind and quality.* An insurer shall not require the use of aftermarket crash parts in the repair of an automobile unless the aftermarket crash part is certified by a nationally recognized entity to be at least equal in kind and quality to the original equipment manufacturer part in terms of fit, quality and performance, or that the part complies with federal safety standards.

15.45(3) *Contents of notice.* Any automobile insurance policy delivered in this state that pays benefits based on the cost of aftermarket crash parts or that requires the insured to pay the difference between the cost of original equipment manufacturer parts and the cost of aftermarket crash parts shall include a notice which contains and is limited to the following language:

NOTICE—PAYMENT FOR AFTERMARKET CRASH PARTS

Physical damage coverage under this policy includes payment for aftermarket crash parts. If you repair the vehicle using more expensive original equipment manufacturer (OEM) parts, you may pay the difference. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.

15.45(4) *Form of notice.* Notice may be provided on a separate form or may be printed prominently on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application, but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the insurance division requires the notice in this rule.

191—15.46 to 15.50 Reserved.

DIVISION III
DISCLOSURE FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

191—15.51(507B) Purpose. The purpose of these rules is to ensure the provision of meaningful information to the purchasers of small face amount life insurance policies. The rules in this division apply to all small face amount policies not exempted under rule 191—15.53(507B) that are issued on or after July 1, 2004.

191—15.52(507B) Definition. “*Small face amount policy*” means a life insurance policy or certificate with an initial face amount of \$15,000 or less.

191—15.53(507B) Exemptions. These rules apply to all group and individual life insurance policies and certificates except:

1. Variable life insurance;
2. Individual and group annuity contracts;
3. Credit life insurance;
4. Group or individual policies of life insurance issued to members of an employer group or other permitted group when:
 - Every plan of coverage was selected by the employer or other group representative;
 - Some portion of the premium is paid by the group or through payroll deduction; and
 - Group underwriting or simplified underwriting is used; and
5. Policies and certificates where an illustration has been provided pursuant to the requirements of 191—Chapter 14.

191—15.54(507B) Disclosure requirements.

15.54(1) An insurer issuing a small face amount policy shall provide the disclosure included in Appendix IV if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.

15.54(2) If, for a particular policy form, the cumulative premiums may exceed the face amount for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

- a. Provide the disclosure only in those circumstances when the premiums may exceed the face amount; or
- b. Provide the disclosure for all demographic and benefit combinations.

15.54(3) Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.

191—15.55(507B) Insurer duties. The insurer and its producers shall have a duty to provide information to policyholders or certificate holders that ask questions about the disclosure statement.

191—15.56 to 15.60 Reserved.

DIVISION IV
ANNUITY DISCLOSURE REQUIREMENTS

191—15.61(507B) Purpose. The purpose of the rules in Division IV of this chapter is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and to foster consumer education. The rules specify the minimum information which must be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of these rules is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.62(507B) Applicability and scope. These rules apply to all annuities not exempted under this rule 191—15.62(507B) for which applications are taken on or after January 1, 2013, except that rule 191—15.66(507B) applies to all annuities not exempted under this rule 191—15.62(507B) which are in effect or for which applications are taken on or after January 1, 2013, and except that rule 191—15.67(507B) applies to all annuity contracts not exempted under this rule 191—15.62(507B) which are in effect on or after January 1, 2013. These rules apply to all group and individual annuity contracts and certificates except:

15.62(1) Immediate and deferred annuities that contain no nonguaranteed elements;

15.62(2) Annuities used to fund:

a. An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

b. A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

c. A governmental or church plan defined in Section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

Notwithstanding this subrule 15.62(2), these rules shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subrule, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

15.62(3) Structured settlement annuities;

15.62(4) Charitable gift annuities as defined in Iowa Code chapter 508F;

15.62(5) Nonregistered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.); and

15.62(6) Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with rule 191—15.64(507B) shall be required after January 1, 2015, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.

a. Notwithstanding this subrule 15.62(6), the delivery of the Buyer's Guide is required in sales of variable annuities and, when appropriate, in sales of other registered products.

b. Nothing in this subrule 15.62(6) shall limit the commissioner's ability to enforce the provisions of these rules or to require additional disclosure.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.63(507B) Definitions. For purposes of these rules:

"Buyer's Guide" means the National Association of Insurance Commissioners' approved Annuity Buyer's Guide.

"Contract owner" means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

"Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after the contract is issued. These elements include the premiums, credited

interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

“Funding agreement” means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

“Generic name” means a short title descriptive of the annuity contract for which application is made or an illustration is prepared, such as “single premium deferred annuity.”

“Guaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

“Illustration” means a personalized presentation or depiction that is prepared for and provided to an individual consumer and that includes nonguaranteed elements of an annuity contract over a period of years.

“Market value adjustment” or *“MVA”* is a positive or negative adjustment that may be applied to the account value or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based either on the movement of an external index or on the company’s current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

“Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges or elements of formulas used to determine any of these elements, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“Structured settlement annuity” means a “qualified funding asset” as defined in Section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.64(507B) Standards for the disclosure document and Buyer’s Guide.

15.64(1) *Delivery methods.* The documents required under this rule may be delivered as follows:

a. When an application for an annuity contract is taken in a face-to-face meeting, the applicant shall be given at or before the time of application both the disclosure document described in rule 191—15.65(507B) and the Buyer’s Guide, if any.

b. When an application for an annuity contract is taken by means other than a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer’s Guide no later than five business days after the completed application is received by the insurer.

c. When an application is received as a result of direct solicitation through the mail:

(1) Providing a Buyer’s Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.

(2) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

d. When an application is received via the Internet:

(1) Taking reasonable steps to make the Buyer’s Guide available for viewing and printing on the insurer’s Web site shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.

(2) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's Web site shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

15.64(2) *Free Buyer's Guide.* A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the Iowa insurance division for a free Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free Buyer's Guide.

15.64(3) *Free-look period.* When the Buyer's Guide and disclosure document are not provided at or before the time of application, a free-look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.65(507B) Content of disclosure documents.

15.65(1) At a minimum, the following information shall be included in the disclosure document required to be provided under these rules:

- a. The generic name of the contract, the company product name, if different, and form number and the fact that it is an annuity;
- b. The insurer's legal name, physical address, Web site address and telephone number;
- c. A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate, including but not limited to:

- (1) The guaranteed and nonguaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread, and an explanation of how they operate;

- (2) An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

- (3) Periodic income options both on a guaranteed and nonguaranteed basis;

- (4) Any value reductions caused by withdrawals from or surrender of the contract;

- (5) How values in the contract can be accessed;

- (6) The death benefit, if available, and how it will be calculated;

- (7) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

- (8) Impact of any rider including, but not limited to, a guaranteed living benefit or a long-term care rider;

- d. Specific dollar amount or percentage charges and fees, listed with an explanation of how they apply; and

- e. Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

15.65(2) Insurers shall define terms used in the disclosure statement in language that facilitates understanding by a typical individual within the segment of the public to which the disclosure statement is directed.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.66(507B) Standards for annuity illustrations.

15.66(1) An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this rule and:

- a. Is clearly labeled as an illustration;
- b. Includes a statement referring consumers to the disclosure document and Buyer's Guide provided to them at time of purchase for additional information about their annuity; and
- c. Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of illustrations.

15.66(2) An illustration furnished an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

15.66(3) The illustration shall not be provided unless accompanied by the disclosure document referenced in rules 191—15.64(507B) and 191—15.65(507B).

15.66(4) When an illustration is used, the illustration shall not:

- a. Describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- b. State or imply that the payment or amount of nonguaranteed elements is guaranteed; or
- c. Be incomplete.

15.66(5) Costs and fees of any type shall be individually noted and explained in the illustration.

15.66(6) An illustration shall conform to the following requirements:

- a. The illustration shall be labeled with the date on which it was prepared;
- b. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled “page 4 of 7 pages”);
- c. The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;
- d. If the age of the proposed insured is shown as a component of the tabular detail, the age shown shall be issue age plus the numbers of years the contract is assumed to have been in force;
- e. The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;
- f. Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features and indicating whether or not they are included in the illustration;
- g. Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled as guaranteed;
- h. The nonguaranteed elements underlying the nonguaranteed illustrated values shall be no more favorable than current nonguaranteed elements and shall not include any assumed future improvement of such elements. Additionally, nonguaranteed elements used in calculating nonguaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;
- i. In determining the nonguaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three different scenarios: one to reflect historical performance of the index for the most recent 10 calendar years; one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the “low scenario”); one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the “high scenario”). The following requirements apply:
 - (1) The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;
 - (2) If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of those indexes has not been in existence for at least 10 calendar years, the allocation to such indexed account shall be assumed to be zero;
 - (3) If any index utilized in determination of an account value has been in existence for at least 10 calendar years but less than 20 calendar years, the 10-calendar-year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

(4) The nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, used in calculating the nonguaranteed index-based interest rate shall be no more favorable than the corresponding current elements;

(5) If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:

1. The allocation used in the illustration shall be the same for all three scenarios; and

2. The 10-calendar-year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option;

(6) The geometric mean annual effective rate of the account value growth over the 10-calendar-year period shall be shown for each scenario;

(7) If the most recent 10-calendar-year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subrule 15.66(8), the most recent 10-calendar-year historical period experience of the index shall be used for each subsequent 10-calendar-year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

(8) The low and high scenarios:

1. Need not show surrender values (if different than account values);

2. Shall not extend beyond 10 calendar years (and therefore are not subject to the requirements of subrule 15.66(8) beyond subparagraph 15.66(8)“a”(1)); and

3. May be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the 10-calendar-year period for the low scenario, the high scenario and the most recent 10-calendar-year scenario; and

(9) The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

j. The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (e.g., “see page 1 for guaranteed elements”);

k. The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;

l. The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest and application of any market value adjustment, as applicable;

m. Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

n. Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(1) The benefits and values are not guaranteed;

(2) The assumptions on which they are based are subject to change by the insurer; and

(3) Actual results may be higher or lower;

o. Illustrations based on nonguaranteed credited interest and nonguaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and nonguaranteed participation rates, caps or spreads for fixed indexed annuities;

p. The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

q. Illustrations shall be concise and easy to read;

r. Key terms shall be defined and then used consistently throughout the illustration;

- s. Illustrations shall not depict values beyond the maximum annuitization age or date;
- t. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; and
- u. Illustrations shall show both annuity income rates per \$1000.00 and the dollar amounts of the periodic income payable.

15.66(7) An annuity illustration shall include a narrative summary that includes the following unless provided at the same time in a disclosure document:

- a. A brief description of any contract features, riders or options, whether guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract.

- b. A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract.

- c. Identification and a brief definition of column headings and key terms used in the illustration.

- d. A statement containing in substance the following:

- (1) For other than fixed indexed annuities:

This illustration assumes the annuity's current nonguaranteed elements will not change. It is likely that they **will** change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information.

- (2) For fixed indexed annuities:

This illustration assumes the index will repeat historical performance and that the annuity's current nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index **will not** repeat historical performance, the nonguaranteed elements **will** change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information.

- e. Additional explanations as follows:

- (1) Minimum guarantees shall be clearly explained;

- (2) The effect on contract values of contract surrender prior to maturity shall be explained;

- (3) Any conditions on the payment of bonuses shall be explained;

- (4) For annuities sold as an IRA or as a qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;

- (5) For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur shall be included; and

- (6) A brief description of the types of annuity income options available shall be explained, including:

- 1. The earliest or only maturity date for annuitization (as the term is defined in the contract);

- 2. For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or 10 years after issue, but in no case later than the maximum annuitization age or date in the contract;

- 3. For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and

- 4. The periodic income amount based on the currently available periodic income rates for the annuity income option in numbered paragraph 15.66(7) "e"(6)"2" or "3," if desired.

15.66(8) Following the narrative summary, an illustration shall include a numeric summary which shall include, at minimum, numeric values at the following durations:

- a. Either:
 - (1) The first 10 contract years; or
 - (2) The surrender charge period if longer than 10 years, including any renewal surrender charge period;
- b. Every tenth contract year up to the later of 30 years or age 70; and
- c. Either:
 - (1) The required annuitization age; or
 - (2) The required annuitization date.

15.66(9) If the annuity contains a market value adjustment, hereafter MVA, all of the following provisions apply to the illustration (Appendix V provides an illustration of an annuity containing an MVA that addresses paragraphs 15.66(9) “a” through “f” below):

- a. The MVA shall be referred to as such throughout the illustration.
- b. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender.
- c. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit.
- d. A statement, containing in substance the following, shall be included:

When you make a withdrawal, the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive.
- e. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the market value adjustment.
- f. The illustrative effect of the MVA shall be shown under at least one positive and one negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of an MVA.
- g. Actual MVA floors and ceilings as listed in the contract shall be illustrated.
- h. If the MVA has significant characteristics not addressed by paragraphs 15.66(9) “a” through “f,” the effect of such characteristics shall be shown in the illustration.

15.66(10) A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time in a disclosure document:

- a. An explanation, in simple terms, of the elements used to determine the index-based interest, including, but not limited to, the following elements:
 - (1) The index(es) which will be used to determine the index-based interest;
 - (2) The indexing method – such as point-to-point, daily averaging, monthly averaging;
 - (3) The index term – the period over which indexed-based interest is calculated;
 - (4) The participation rate, if applicable;
 - (5) The cap, if applicable; and
 - (6) The spread, if applicable;
- b. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;
- c. The narrative shall include a brief description of the frequency with which the company can reset the elements used to determine the indexed-based credits, including the participation rate, the cap, and the spread, if applicable; and
- d. If the product allows the contract holder to make allocations to declared-rate segment, then the narrative shall include a brief description of:
 - (1) Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and

(2) Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

15.66(11) A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:

- a. The assumed growth rate of the index in accordance with paragraph 15.66(6) “i”;
- b. The assumed values for the participation rate, cap and spread, if applicable; and
- c. The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with paragraph 15.66(6) “i.”

15.66(12) If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that nonsubstantive changes including, but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1035 of the Internal Revenue Code, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.67(507B) Report to contract owners. For annuities in the payout period that include nonguaranteed elements and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

15.67(1) The beginning and ending date of the current report period;

15.67(2) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

15.67(3) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

15.67(4) The amount of outstanding loans, if any, as of the end of the current report period.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.68(507B) Penalties. In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of these rules shall be guilty of a violation of Iowa Code chapter 507B.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.69(507B) Severability. If any provision of these rules or their application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.70 and 15.71 Reserved.

DIVISION V SUITABILITY IN ANNUITY TRANSACTIONS

191—15.72(507B) Purpose. The purpose of these rules is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately addressed.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.73(507B) Applicability and scope.

15.73(1) These rules shall apply to any recommendation to purchase, exchange or replace an annuity made to a consumer on or after January 1, 2011, by an insurance producer, or by an insurer where no producer is involved, that results in the purchase, exchange or replacement recommended.

15.73(2) Unless otherwise specifically included, this rule shall not apply to transactions involving:

- a. Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to these rules.
- b. Contracts used to fund the following:
 - (1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
 - (2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) if established or maintained by an employer;
 - (3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC;
 - (4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - (5) Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
 - (6) Formal prepaid funeral contracts.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.74(507B) Definitions. For purposes of this division:

“Annuity” means an annuity that is an insurance product under state law, individually solicited, whether the product is classified as an individual or group annuity.

“Continuing education credit” or *“CE credit”* means one credit as defined in rule 191—11.2(505,522B).

“Continuing education provider” or *“CE provider”* means a CE provider as defined in rule 191—11.2(505,522B).

“FINRA” means the Financial Industry Regulatory Authority or a succeeding agency.

“Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

“Insurer” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

“Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice.

“Replacement” means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that, by reason of the transaction, an existing policy or contract has been or is to be:

- 1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
- 2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- 3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- 4. Reissued with any reduction in cash value; or
- 5. Used in a financed purchase.

“Suitability information” means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

- 1. Age;
- 2. Annual income;
- 3. Financial situation and needs, including the financial resources used for the funding of the annuity;
- 4. Financial experience;
- 5. Financial objectives;
- 6. Intended use of the annuity;

7. Financial time horizon;
8. Existing assets, including investment and life insurance holdings;
9. Liquidity needs;
10. Liquid net worth;
11. Risk tolerance; and
12. Tax status.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.75(507B) Duties of insurers and of insurance producers.

15.75(1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments and other insurance products and as to the consumer's financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

a. The consumer has been reasonably informed of various features of the recommended annuity, such as: the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; potential charges for and features of riders; limitations on interest returns; insurance and investment components; and market risk;

b. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, death benefit, or living benefit;

c. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on the consumer's suitability information; and

d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:

(1) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death benefit, living benefit, or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

(2) The consumer would benefit from product enhancements and improvements; and

(3) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

15.75(2) Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

15.75(3) Except as permitted under subrule 15.75(4), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

15.75(4) Exceptions.

a. Except as provided under paragraph 15.75(4)“*b.*,” neither an insurance producer, nor an insurer, shall have any obligation to a consumer under subrule 15.75(1) or 15.75(3) related to any annuity transaction if:

(1) No recommendation is made;

(2) A recommendation was made and was later found to have been prepared based on inaccurate material information provided by the consumer;

(3) A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

(4) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

b. An insurer's issuance of an annuity subject to paragraph 15.75(4) "a" shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

15.75(5) An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of sale:

a. Make a record of any recommendation subject to subrule 15.75(1);

b. Obtain a customer-signed statement documenting a customer's refusal to provide suitability information, if any; and

c. Obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation.

15.75(6) An insurer's duty to supervise.

a. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with rules 191—15.72(507B) through 191—15.78(507B) including, but not limited to, the following:

(1) The insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of these rules and shall incorporate the requirements of these rules into relevant insurance producer training manuals;

(2) The insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of rule 191—15.76(507B);

(3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its insurance producers;

(4) The insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(5) The insurer shall maintain reasonable procedures to detect recommendations that are not suitable. These procedures may include, but are not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures or by confirming suitability information after issuance or delivery of the annuity; and

(6) The insurer shall annually provide a report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

b. Third-party supervisor.

(1) Nothing in this subrule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph 15.75(6) "a." An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to rule 191—15.73(507B) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph 15.75(6) "b"(2).

(2) An insurer's supervision system under paragraph 15.75(6) "a" shall include supervision of contractual performance under this subrule including, but not limited to, the following:

1. Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

2. Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

c. An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

15.75(7) An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

- a. Truthfully responding to an insurer's request for confirmation of suitability information;
- b. Filing a complaint; or
- c. Cooperating with the investigation of a complaint.

15.75(8) Compliance with FINRA.

a. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under these rules. This subrule applies to FINRA member broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision are similar to those applied to variable annuity sales. However, nothing in this subrule shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

b. For paragraph 15.75(8) "a" to apply, an insurer shall:

(1) Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

(2) Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.76(507B) Insurance producer training.

15.76(1) An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this subrule.

15.76(2) Training required.

a. One-time course.

(1) An insurance producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the Iowa insurance division and provided by an education provider approved by the insurance division.

(2) Insurance producers may not engage in the sale of annuities until the annuity training course required under this rule has been completed.

b. The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

c. The training required under this rule shall include information on the following topics:

- (1) The types of annuities and various classifications of annuities;
- (2) Identification of the parties to an annuity;
- (3) How fixed, variable and indexed annuity contract provisions affect consumers;
- (4) The application of income taxation of qualified and nonqualified annuities;
- (5) The primary uses of annuities;
- (6) Appropriate sales practices; and
- (7) Replacement and disclosure requirements.

d. Providers of courses intended to comply with this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

e. A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

f. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 191—Chapter 11.

g. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 191—Chapter 11.

h. Satisfaction of the training requirements of another state that are substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

i. An insurer shall verify that an insurance producer has completed the annuity training course required under this subrule before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subrule by obtaining certificates of completion of the training course or obtaining reports provided by Iowa insurance commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved continuing education providers.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.77(507B) Compliance; mitigation; penalties.

15.77(1) An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the commissioner may order:

a. An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of the rules of this division;

b. A general agency, independent agency or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of the rules of this division; and

c. Appropriate penalties and sanctions.

15.77(2) Any applicable penalty under Iowa Code chapter 507B for a violation of the rules in Division V of this chapter may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.78(507B) Record keeping.

15.78(1) Insurers, general agents, independent agencies, and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

15.78(2) Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

[ARC 8934B, IAB 7/14/10, effective 1/1/11; ARC 0035C, IAB 3/7/12, effective 4/11/12]

191—15.79 Reserved.

DIVISION VI INDEXED PRODUCTS TRAINING REQUIREMENT

191—15.80(507B,522B) Purpose. The purpose of the rules in this division is to require certain specific minimum training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that insurance producers are able to determine whether an indexed product is suitable for a consumer and are able to adequately explain to a consumer how the indexed product works. The ultimate goal of these rules is to ensure that purchasers of indexed products understand basic features of the indexed products. The rules in this division apply to all indexed products sold on or after January 1, 2008.

191—15.81(507B,522B) Definitions. For the purpose of this division:

“*CE credit*” means one continuing education “credit” as defined in 191—Chapter 11.

“*CE provider*” means any individual or entity that is approved to offer continuing education courses in Iowa pursuant to 191—Chapter 11.

“*Indexed products*” means all fixed indexed life insurance and fixed indexed annuity products.

“*Insurer*” means an insurance company admitted to do business in Iowa which sells indexed products in Iowa.

“*Producer*” means a person required to obtain an insurance license under Iowa Code chapter 522B.

191—15.82(507B,522B) Special training required. A producer who wishes to sell indexed products in Iowa shall complete at least one four-credit indexed products training course, as described in this division, prior to providing any advice or making any sales presentation concerning an indexed product.

191—15.83(507B,522B) Conduct of training course.

15.83(1) The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division’s Web site, www.iid.iowa.gov.

15.83(2) CE providers of indexed products training shall cover all topics listed in the indexed products training outline and, within the time allotted for the required topics, shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer’s products. Additional topics may be offered in conjunction with and in addition to the required outline.

15.83(3) The minimum length of the indexed products training must be sufficient to qualify for at least four CE credits, but may be longer.

15.83(4) To satisfy the requirements of subrules 15.83(1), 15.83(2) and 15.83(3), an indexed products training course shall be filed, approved and conducted according to the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

15.83(5) Indexed products training courses may be conducted and completed by classroom or self-study methods according to the rules in 191—Chapter 11.

15.83(6) CE providers of indexed products training shall comply with the reporting requirements as set forth in 191—Chapter 11.

15.83(7) CE providers of indexed products training shall issue certificates of completion according to the rules in 191—Chapter 11.

15.83(8) A producer may use the CE credits completed under the indexed products training requirement to meet the producer’s continuing education requirement under 191—Chapter 11.

[ARC 2296C, IAB 12/9/15, effective 1/13/16]

191—15.84(507B,522B) Insurer duties.

15.84(1) Each insurer shall establish a system to verify which of its appointed insurance producers have completed one training course on indexed products as required in this division.

15.84(2) An insurer shall verify that a producer has completed the required indexed products training before allowing the producer to sell an indexed product for that insurer.

15.84(3) For insurance producers under contract with or employed by a broker-dealer, general agent or independent agency, an insurer may enter into a contract with the broker-dealer, general agent or independent agency to establish and maintain a system of verification as required by subrule 15.84(1) with respect to those insurance producers. In such circumstances, the insurer shall make reasonable inquiry to ensure that the broker-dealer, general agent or independent agency is performing the functions required under subrules 15.84(1) and 15.84(2).

191—15.85(507B,522B) Verification of training. Insurers, producers and third-party contractors may verify a producer’s completion of the indexed products training by accessing the division’s Web site at www.iid.iowa.gov.

[ARC 2296C, IAB 12/9/15, effective 1/13/16]

191—15.86(507B,522B) Penalties.

15.86(1) Insurers and third-party contractors that violate the rules of this division are subject to penalty under Iowa Code chapter 507B.

15.86(2) Producers who violate the rules of this division are subject to penalty under Iowa Code chapters 507B and 522B.

15.86(3) Continuing education providers that fail to follow the requirements of the rules of this division and the conduct requirements of 191—Chapter 11 are subject to penalty under 191—Chapter 11 and Iowa Code chapters 507B and 522B.

191—15.87(507B,522B) Compliance date.

15.87(1) A producer who provides advice or makes a sales presentation regarding an indexed product on or after January 1, 2008, shall have completed the indexed products training required by this division.

15.87(2) An Iowa-licensed insurer shall verify that, prior to the sale of any indexed products on or after January 1, 2008, any producer appointed by the insurer has completed the indexed products training required by this division.

Appendix I
LIFE INSURANCE COST AND
BENEFIT DISCLOSURE

Definitions.

“Annual premium” for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

“Cash dividend” means dividends which can be applied toward payment of gross premiums which comply with the illustrated scale.

“Equivalent level annual dividend” is calculated by applying the following steps:

1. Accumulate the annual cash dividends at 5 percent interest compounded annually to the end of the tenth and twentieth policy years.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Divide the results of paragraph “2” by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.

“Equivalent level death benefit” of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death other than suicide, or other specifically enumerated exclusions, at the beginning of each policy year for 10 and 20 years at 5 percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

“Generic name” means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

“Life insurance net payment cost index.” The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.

“Life insurance surrender cost index.” The life insurance surrender cost index is calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at 5 percent interest compounded annually to the end of the period selected and add this sum to the amount determined in subparagraph “1.”

3. Divide the result of subparagraph “2” (subparagraph “1” for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subparagraph “2” (subparagraph “1” for guaranteed-cost policies) over the respective periods stipulated in subparagraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

4. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5 percent interest compounded annually to the end of the period stipulated in subparagraph “1” and dividing the result by the respective factors stated in subparagraph “3” (this amount is the annual premium payable for a level premium plan).

5. Subtract the result of subparagraph “3” from subparagraph “4.”

6. Divide the result of subparagraph “5” by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.

“Policy summary,” for the purposes of these rules, shall mean a written statement describing the elements of the policy including but not limited to:

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

2. The name and address of the insurance producer or, if no producer is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

3. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

4. The generic name of the basic policy and each rider.

5. The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier:

(a) The annual premium for the basic policy.

(b) The annual premium for each optional rider.

(c) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide and other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(d) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(e) Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

(f) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

6. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary includes the maximum annual percentage rate.

7. Life insurance cost indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life.

8. The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.

9. A policy summary which includes dividends shall also include a statement that dividends are based on the company’s illustrated scale and are not guaranteed and a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the life insurance buyer’s guide.

10. A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the life insurance buyer’s guide.

11. The date on which the policy summary is prepared.

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph “5” of this definition shall be listed in total, not a per-thousand nor a per-unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

Appendix II
HIV ANTIBODY TEST
INFORMATION FORM FOR INSURANCE APPLICANT

AIDS

Acquired Immunodeficiency Syndrome (AIDS) is a life-threatening disorder of the immune system, caused by a virus, HIV. The virus is transmitted by sexual contact with an infected person, from an infected mother to her newborn infant, or by exposure to infected blood (as in needle sharing during IV drug use). Persons at high risk of contracting AIDS include males who have had sexual contact with another man, intravenous drug users, hemophiliacs, and persons who have had sexual contact with any of these persons. AIDS does not typically develop until a person has been infected with HIV for several years. A person may remain free of symptoms for years after becoming infected. Infected persons have a 25 percent to 50 percent chance of developing AIDS over the next ten years.

The HIV antibody test:

Before consenting to testing, please read the following important information:

1. Purpose. This test is being run to determine whether you may have been infected with HIV. If you are infected, you are probably not insurable. This test is not a test for AIDS; AIDS can only be diagnosed by medical evaluation.

2. Positive test results. If you test positive, you should seek medical follow-up with your personal physician. If your test is positive, you may be infected with HIV.

3. Accuracy. An HIV test will be considered positive only after confirmation by a laboratory procedure that the state health officer has determined to be highly accurate. Nonetheless, the HIV antibody test is not 100 percent accurate. Possible errors include:

a. False positives: This test gives a positive result, even though you are not infected. This happens rarely and is more common in persons who have not engaged in high-risk behavior. Retesting should be done to help confirm the validity of a positive test.

b. False negatives: The test gives a negative result, even though you are infected with HIV. This happens most commonly in recently infected persons; it takes at least 4 to 12 weeks for a positive test result to develop after a person is infected.

4. Side effects. A positive test result may cause you significant anxiety. A positive test may result in uninsurability for life, health, or disability insurance policies for which you may apply in the future. Although prohibited by law, discrimination in housing, employment, or public accommodations may result if your test results become known to others. A negative result may create a false sense of security.

5. Disclosure of results. A positive test result will be reported to you in one of the following ways. You may choose to have information about a positive test result communicated to you through your physician or through the alternative testing site. If you do not designate a physician or an alternative testing site to receive the information, the information about a positive test result will be reported to the Iowa Department of Public Health, and the Iowa Department of Public Health will contact you.

6. Confidentiality. Like all medical information, HIV test results are confidential. An insurer, insurance agent, or insurance-support organization is required to maintain the confidentiality of HIV test results. However, certain disclosures of your test results may occur, including those authorized by consent forms that you may have signed as part of your overall application. Your test results may be provided to the Medical Information Bureau, a national insurance data bank. Your insurance agent will provide you with additional written information about this subject at your request.

7. Prevention. Persons who have a history of high-risk behavior should change these behaviors to prevent getting or giving AIDS, regardless of whether they are tested. Specific important changes in behavior include safe sex practices (including condom use for sexual contact with someone other than a long-term monogamous partner) and not sharing needles.

8. Information. Further information about HIV testing and AIDS can be obtained by calling the national AIDS hotline at 1-800-342-2437.

INFORMED CONSENT

I hereby authorize the company and its designated medical facilities to draw samples of my blood or other bodily fluid for the purpose of laboratory testing to provide applicable medical information concerning my insurability. These tests may include but are not limited to tests for: cholesterol and related blood lipids; diabetes; liver or kidney disorders; infection by the Acquired Immune Deficiency Syndrome (HIV) virus (if permitted by law); immune disorders; or the presence of medications, drugs, nicotine or other metabolites. The tests will be done by a medically accepted procedure which is extremely reliable.

If an HIV Antibody Screen is performed, it will be performed only by a certified laboratory and according to the following medical protocol:

1. An initial ELISA blood or other bodily fluid test will be done.
 - a. If the initial ELISA blood or other bodily fluid test is positive, it will be repeated.
 - b. If the initial ELISA blood or other bodily fluid test is negative, a negative finding will be reported to the company.
2. If the initial ELISA blood or other bodily fluid test is positive, it will be repeated.
 - a. If the second ELISA blood or other bodily fluid test is also positive, a Western Blot blood or other bodily fluid test will be performed to confirm the positive results of the two ELISA blood or other bodily fluid tests.
 - b. If the second ELISA blood or other bodily fluid test is negative, a third ELISA blood or other bodily fluid test will be performed. If the third ELISA blood or other bodily fluid test is positive, a Western Blot blood or other bodily fluid test will be performed to confirm the previous positive results. If the third blood or other bodily fluid test is negative, a negative result will be reported to the company.
3. Only if at least two ELISA blood or other bodily fluid tests and a Western Blot blood or other bodily fluid test are all positive will the result be reported as a positive. All other results will be reported as negative to the company.

Without a court order or written authorization from me, these results will be made known only to the company and its reinsurers (if involved in the underwriting process). The company will provide results of all tests to a physician of my choice. Positive test results to the HIV Antibody Screen will be disclosed only to my physician or an alternative testing site as I direct below. If I do not designate a physician or alternative testing site to receive the results, the company will provide results of a positive HIV test to the Iowa Department of Public Health. In addition, the company may make a brief report to MIB, Inc., in a manner described in the Pre-notice which I received as a part of the application process. The only information the company will report to MIB, Inc. is that positive results were obtained from a blood or other bodily fluid test. The company will not report what tests were performed or that the positive result was for HIV antibodies.

These organizations will be the only ones maintaining this information in any type of file except as required by law. Positive HIV Antibody Screen results are to be reported to: (elect one) ☐ the Alternative Testing Site or ☐ my physician; _____

(name and address of attending physician)

This authorization will be valid for 90 days from the date below.

Dated At: _____ Day _____ Month _____, 20 _____

Witness _____ Proposed Insured: _____
 Producer (Signature) (Signature)

This rule is intended to implement Iowa Code section 505.16.

Appendix III COMPLAINT RECORD

Column A	Column B		Column C	Column D	Column E	Column F	Column G	Column H
Company Identification Number	Function Code	Reason Code	Line Type	Company Disposition after Complaint Received	Date Received	Date Closed	Insurance Division Complaint	State of Origin

(Producer's
Number)

Explanation

- A. Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number, name, or other means of identifying any licensee of the Insurance Division, such as a producer that may have been involved in the complaint.
- B. Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.
Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above.
 - 1) Underwriting
 - a) Premium and rating
 - b) Refusal to insure
 - c) Cancellation/renewal
 - d) Delays
 - e) Unfair discrimination
 - f) Endorsement/rider
 - g) Group conversion
 - h) Medicare supplement violation
 - i) Miscellaneous (not covered by above)
 - 2) Marketing and Sales
 - a) General advertising
 - b) Misrepresentation
 - c) Producer handling
 - d) Replacement
 - e) Delays
 - f) Miscellaneous (not covered by above)
 - 3) Claims
 - a) Post claim underwriting
 - b) Delays
 - c) Unsatisfactory settlement/offer
 - d) Coordination of benefits
 - e) Cost containment
 - f) Denial of claim
 - g) Miscellaneous (not covered by above)
 - 4) Policyholder service
 - a) Premium notice/billing
 - b) Cash value
 - c) Delays/no response
 - d) Premium refund
 - e) Coverage question
 - f) Miscellaneous (not covered by above)
 - 5) Miscellaneous

- C. Line Type. Complaints are to be classified according to the line of insurance involved as follows:
 - 1) Automobile
 - 2) Fire
 - 3) Homeowners-Farmowners
 - 4) Crop
 - 5) Life and Annuity
 - 6) Accident and Health
 - 7) Miscellaneous (not covered by above)
- D. Company Disposition After Receipt. The complaint record shall note the disposition of the complaint.

The following examples illustrate the type of information called for, but are not intended to be required language nor to exhaust the possibilities:

 - 1. Policy issued/restored.
 - 2. Refund.
 - 3. Claim settled.
 - 4. Delay resolved.
 - 5. Question of fact.
 - 6. Contract provision/legal issue.
 - 7. No jurisdiction.
- E. Date Received. This refers to the date the complaint was received.
- F. Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.
- G. Insurance Department Complaint. Complaints are to be classified so as to indicate if the complaint was from an insurance department.
- H. State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.

Appendix IV

DISCLOSURE FORM FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

Important Information About Your Policy

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for *your* policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if applicable, and changes in the face amount.
- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.
- Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

If You Change Your Mind . . .

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

Contact Information

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and Web site (if available)].

APPENDIX V

Annuity Illustration Example

[The following illustration is an example only and does not reflect specific characteristics of any actual product for sale by any company]

ABC Life Insurance Company*Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at Policyownerservice@ABCLife.com or 555-555-5555.)

Sex: Male	Initial Premium Payment: \$100,000.00
Age at Issue: 54	Planned Annual Premium Payments: None
Annuitant: John Doe	Tax Status: Nonqualified
Oldest Age at Which Annuity Payments Can Begin: 95	Withdrawals: None Illustrated

Initial Interest Guarantee Period	5 Years
Initial Guaranteed Interest Crediting Rates	
First Year (reflects first year only interest bonus credit of 0.75%):	4.15%
Remainder of Initial Interest Guarantee Period:	3.40%
Market Value Adjustment Period:	5 Years
Minimum Guaranteed Interest Rate After Initial Interest Guarantee Period*:	3%

*After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

Annuity Income Options and Illustrated Monthly Income Values

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

Annuity income options include the following:

- Periodic payments for Annuitant's life
- Periodic payments for Annuitant's life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant's life with payments continuing for the life of a survivor annuitant

Illustrated Annuity Income Option: Monthly payments for Annuitant's life with payments guaranteed for 10-year period.

Assumed Age When Payments Start: 70

	Account Value	Monthly Annuity Income Rate/\$1,000 of Account Value*	Monthly Annuity Income
Based on Rates Guaranteed in the Contract	\$164,798	\$5.00	\$823.99
Based on Rates Currently Offered by the Company	\$171,976	\$6.50	\$1,117.84

*If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.

ABC Life Insurance Company*Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at Policyownerservice@ABCLife.com or 555-555-5555.)

Contract Year/Age	Premium Payment	Values Based on Guaranteed Rates				Values Based on Assumption That Initial Guaranteed Rates Continue		
		Interest Crediting Rate	Account Value	Cash Surrender Value Before MVA	Minimum Cash Surrender Value After MVA	Interest Crediting Rate	Account Value	Cash Surrender Value Before and After MVA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 / 55	\$ 100,000	4.15%	\$ 104,150	\$ 95,818	\$ 92,000	4.15%	\$ 104,150	\$ 95,818
2 / 56	0	3.40%	107,691	100,153	93,000	3.40%	107,691	100,513
3 / 57	0	3.40%	111,353	104,671	95,614	3.40%	111,353	104,671
4 / 58	0	3.40%	115,139	109,382	98,482	3.40%	115,139	109,382
5 / 59	0	3.40%	119,053	114,291	114,291	3.40%	119,053	114,291
6 / 60	0	3.00%	122,625	118,946	118,946	3.40%	123,101	119,408
7 / 61	0	3.00%	126,304	123,778	123,778	3.40%	127,287	124,741
8 / 62	0	3.00%	130,093	130,093	130,093	3.40%	131,614	131,614
9 / 63	0	3.00%	133,996	133,996	133,996	3.40%	136,089	136,089
10 / 64	0	3.00%	138,015	138,015	138,015	3.40%	140,716	140,716
11 / 65	0	3.00%	142,156	142,156	142,156	3.40%	145,501	145,501
16 / 70	0	3.00%	164,798	164,798	164,798	3.40%	171,976	171,976
21 / 75	0	3.00%	191,046	191,046	191,046	3.40%	203,268	203,268
26 / 80	0	3.00%	221,474	221,474	221,474	3.40%	240,255	240,255
31 / 85	0	3.00%	256,749	256,749	256,749	3.40%	283,972	283,972
36 / 90	0	3.00%	297,643	297,643	297,643	3.40%	335,643	335,643
41 / 95	0	3.00%	345,050	345,050	345,050	3.40%	396,717	396,717

For column descriptions, turn to page 3

Column Descriptions

- (1) **Ages** shown are measured from the Annuitant's age at issue.
- (2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown.

Values Based on Guaranteed Rates

- (3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.
- (4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant's death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.
- (5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

Years Measured from Premium Payment:	1	2	3	4	5	6	7	8+
Surrender Charges:	8%	7%	6%	5%	4%	3%	2%	0%

- (6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your Initial Guaranteed Interest Rate, the MVA will DECREASE the amount you receive. Page 4 of this illustration provides additional information concerning the MVA.

Values Based on Assumption That Initial Guaranteed Rates Continue

- (7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.
- (8) **Account Value** is calculated the same way as Column (4).
- (9) **Cash Surrender Value Before and After MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case, the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

Important Note: This illustration assumes you will take **no** withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustration.

The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.

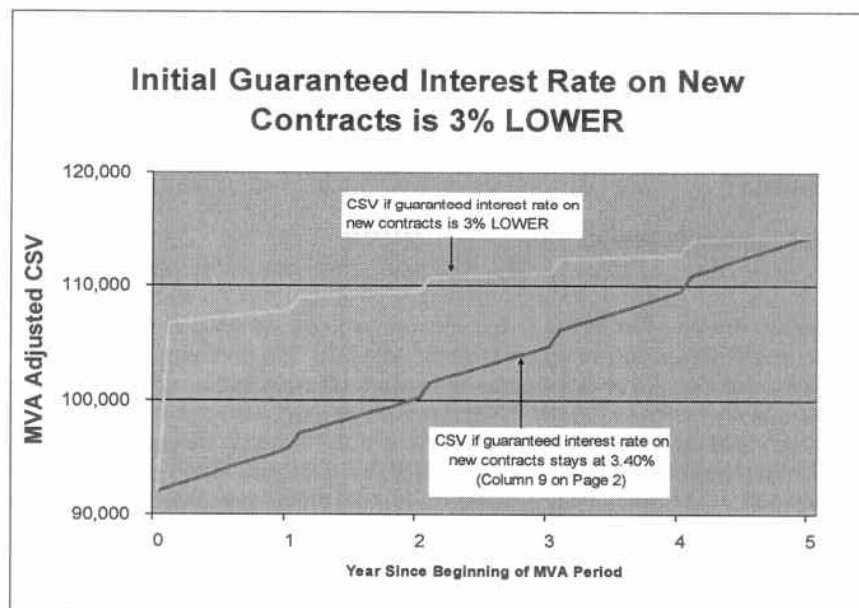
MVA-Adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

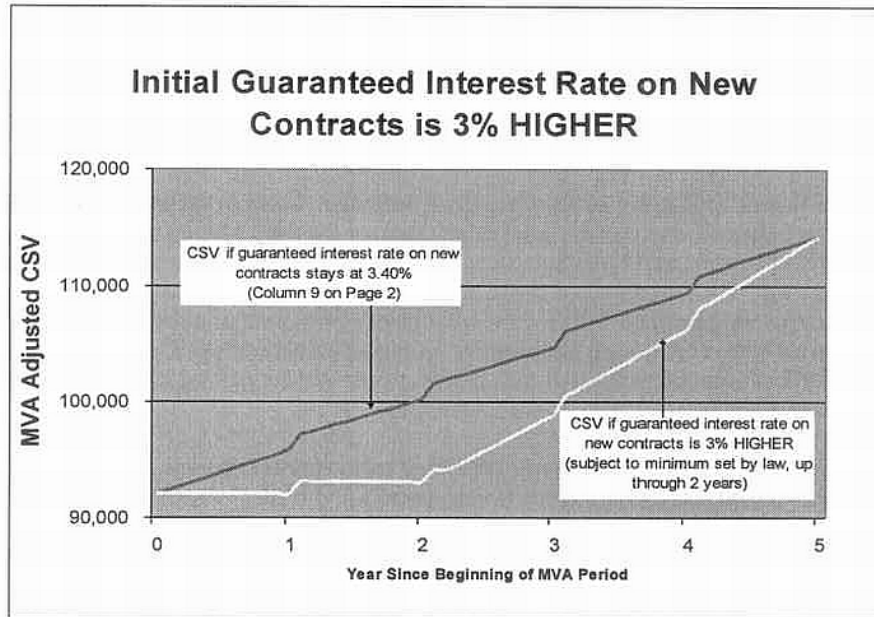
The graphs below* show MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on page 2 (\$100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

Graph #1 shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (green line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

Graph #2 shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on Page 2), which in this scenario limits the decrease for the first 2 years (yellow line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.





*Color not reproducible in the Iowa Administrative Code.

Page 4 of 4

[ARC 0035C, IAB 3/7/12, effective 4/11/12]

These rules are intended to implement Iowa Code chapters 507B and 522B.

[Filed 8/1/63, amended 11/21/63, 11/16/65, 1/13/71, 10/11/72, 7/3/75]

[Filed 12/1/75, Notice 10/6/75—published 12/15/75, effective 1/20/76]

[Filed 2/17/76, Notice 12/15/75—published 3/8/76, effective 4/13/76]

[Filed 4/26/76, Notice 3/22/76—published 5/3/76, effective 6/9/76]

[Filed 9/14/76, Notice 6/14/76—published 10/6/76, effective 7/1/77]

[Filed 1/7/77, Notice 10/20/76—published 1/26/77, effective 3/2/77]

[Filed emergency 12/12/77—published 12/28/77, effective 1/1/78]

[Filed 12/21/78, Notice 10/4/78—published 1/10/79, effective 2/15/79]¹

[Filed 2/1/80, Notice 12/12/79—published 2/20/80, effective 3/26/80]

[Filed 11/5/81, Notice 9/2/81—published 11/25/81, effective 12/31/81]²

[Filed emergency 2/26/82—published 3/17/82, effective 3/11/82]

[Filed 5/7/82, Notice 3/17/82—published 5/26/82, effective 7/1/82]

[Filed 4/3/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

[Filed emergency 8/7/86—published 8/27/86, effective 8/15/86]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 1/23/87, Notice 11/5/86—published 2/11/87, effective 3/18/87]

[Filed 10/2/87, Notice 8/26/87—published 10/21/87, effective 11/25/87]

[Filed emergency 6/24/88—published 7/13/88, effective 7/1/88]

[Filed 7/8/88, Notice 3/9/88—published 7/27/88, effective 9/1/88]

[Filed 7/8/88, Notice 5/18/88—published 7/27/88, effective 11/1/88]⁰

[Filed 12/9/88, Notice 9/21/88—published 12/28/88, effective 2/1/89]

[Filed 8/16/90, Notice 5/16/90—published 9/5/90, effective 10/10/90]

[Filed 11/6/92, Notice 8/5/92—published 11/25/92, effective 2/1/93]

[Filed 4/23/93, Notice 3/3/93—published 5/12/93, effective 6/16/93]

[Filed 12/26/96, Notice 11/6/96—published 1/15/97, effective 2/19/97]

[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

[Filed 11/24/99, Notice 6/16/99—published 12/15/99, effective 7/1/00]

[Filed 1/4/02, Notice 10/17/01—published 1/23/02, effective 2/27/02]
 [Filed 7/3/03, Notice 4/2/03—published 7/23/03, effective 8/27/03]³
 [Filed emergency 4/7/04—published 4/28/04, effective 4/7/04]
 [Filed 12/15/04, Notice 10/27/04—published 1/5/05, effective 2/9/05]
 [Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
 [Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]
 [Filed 3/9/07, Notice 12/20/06—published 3/28/07, effective 5/2/07]
 [Filed 10/30/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]
 [Filed Emergency ARC 7796B, IAB 5/20/09, effective 5/22/09]
 [Filed ARC 7965B (Notice ARC 7797B, IAB 5/20/09), IAB 7/15/09, effective 8/19/09]
 [Filed ARC 7964B (Notice ARC 7795B, IAB 5/20/09), IAB 7/15/09, effective 8/19/09]
 [Filed ARC 8934B (Notice ARC 8768B, IAB 5/19/10), IAB 7/14/10, effective 1/1/11]
 [Filed ARC 9498B (Notice ARC 9398B, IAB 2/23/11), IAB 5/4/11, effective 6/8/11]
 [Filed ARC 0035C (Notice ARC 9941B, IAB 12/28/11), IAB 3/7/12, effective 4/11/12]
 [Filed ARC 2258C (Notice ARC 2173C, IAB 9/30/15), IAB 11/25/15, effective 12/30/15]
 [Filed ARC 2296C (Notice ARC 2201C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

⁰ Two or more ARCs

¹ The Administrative Rules Review Committee at their February 13, 1979, meeting delayed the effective date of rules 15.90 to 15.93 seventy days.

² Effective date (12/31/81) of rules 15.9 and 15.31 delayed 70 days by the Administrative Rules Review Committee.

³ At its meeting held August 13, 2003, the Administrative Rules Review Committee voted to delay the effective date of 15.43(10) until adjournment of the 2004 Session of the General Assembly.

EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
Prior to 9/7/88, see Public Instruction Department[670]
(Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I

*GENERAL INFORMATION—
DEPARTMENT OPERATIONS*

CHAPTER 1

ORGANIZATION AND OPERATION

- 1.1(17A,256) State board of education
- 1.2(17A,256) Student member of state board of education
- 1.3(17A,256) Director of education
- 1.4(17A,256) Department of education

CHAPTER 2

AGENCY PROCEDURE FOR RULE MAKING
AND PETITIONS FOR RULE MAKING

(Uniform Rules)

- 2.1(17A) Applicability
- 2.2(17A) Advice on possible rules before notice of proposed rule adoption
- 2.3(17A) Public rule-making docket
- 2.4(17A) Notice of proposed rule making
- 2.5(17A) Public participation
- 2.6(17A) Regulatory analysis
- 2.7(17A,25B) Fiscal impact statement
- 2.8(17A) Time and manner of rule adoption
- 2.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 2.10(17A) Exemptions from public rule-making procedures
- 2.11(17A) Concise statement of reasons
- 2.12(17A) Contents, style, and form of rule
- 2.13(17A) Agency rule-making record
- 2.14(17A) Filing of rules
- 2.15(17A) Effectiveness of rules prior to publication
- 2.16(17A) General statements of policy
- 2.17(17A) Review by agency of rules
- 2.18(17A) Petition for rule making
- 2.19(17A) Inquiries

CHAPTER 3

DECLARATORY ORDERS

(Uniform Rules)

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.10(17A) Contents of declaratory order—effective date
- 3.11(17A) Copies of orders
- 3.12(17A) Effect of a declaratory order

CHAPTER 4 WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

4.1(17A,ExecOrd11)	Definitions
4.2(17A,ExecOrd11)	Scope of chapter
4.3(17A,ExecOrd11)	Applicability of chapter
4.4(17A,ExecOrd11)	Criteria for waiver
4.5(17A,ExecOrd11)	Filing of petition
4.6(17A,ExecOrd11)	Content of petition
4.7(17A,ExecOrd11)	Additional information
4.8(17A,ExecOrd 11)	Notice
4.9(17A,ExecOrd11)	Hearing procedures
4.10(17A,ExecOrd11)	Ruling
4.11(17A,ExecOrd11)	Public availability
4.12(17A,ExecOrd11)	Summary reports
4.13(17A,ExecOrd11)	Cancellation
4.14(17A,ExecOrd11)	Violations
4.15(17A,ExecOrd11)	Defense
4.16(17A,ExecOrd11)	Judicial review
4.17(17A,ExecOrd11)	Exception

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES (Uniform Rules)

5.1(256)	Definitions
5.3(256)	Requests for access to records
5.6(256)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(256)	Disclosures without the consent of the subject
5.10(256)	Routine use
5.11(256)	Consensual disclosure of confidential records
5.12(256)	Release to a subject
5.13(256)	Availability of records
5.14(256)	Personally identifiable information
5.15(256)	Other groups of records
5.16(256)	Applicability

CHAPTER 6 APPEAL PROCEDURES

6.1(290)	Scope of appeal
6.2(256,290,17A)	Definitions
6.3(290,17A)	Manner of appeal
6.4(17A)	Continuances
6.5(17A)	Intervention
6.6(17A)	Motions
6.7(17A)	Disqualification
6.8(290)	Subpoena of witnesses and costs
6.9(17A)	Discovery
6.10(17A)	Consolidation—severance
6.11(17A)	Waiver of procedures
6.12(17A)	Appeal hearing
6.13	Reserved
6.14(17A)	Ex parte communication
6.15(17A)	Record

6.16(17A)	Recording costs
6.17(290,17A)	Decision and review
6.18(290)	Finality of decision
6.19(17A)	Default
6.20(17A)	Application for rehearing of final decision
6.21(17A)	Rehearing
6.22(17A)	Emergency adjudicative proceedings
6.23(256,17A)	Additional requirements for specific programs

CHAPTER 7 CRITERIA FOR GRANTS

7.1(256,17A)	Purpose
7.2(256,17A)	Definitions
7.3(256,17A)	Requirements
7.4(256,17A)	Review process
7.5(290,17A)	Appeal of grant denial or termination

CHAPTERS 8 to 10 Reserved

TITLE II *ACCREDITED SCHOOLS AND SCHOOL DISTRICTS*

CHAPTER 11 UNSAFE SCHOOL CHOICE OPTION

11.1(PL107-110)	Purpose
11.2(PL107-110)	Definitions
11.3(PL107-110)	Whole school option
11.4(PL107-110)	Individual student option
11.5(PL107-110)	District reporting

CHAPTER 12 GENERAL ACCREDITATION STANDARDS

DIVISION I GENERAL STANDARDS

12.1(256) General standards

DIVISION II DEFINITIONS

12.2(256) Definitions

DIVISION III ADMINISTRATION

12.3(256) Administration

DIVISION IV SCHOOL PERSONNEL

12.4(256) School personnel

DIVISION V EDUCATION PROGRAM

12.5(256) Education program

DIVISION VI ACTIVITY PROGRAM

12.6(256) Activity program

DIVISION VII STAFF DEVELOPMENT

12.7(256,284,284A) Professional development

DIVISION VIII ACCOUNTABILITY

12.8(256) Accountability for student achievement

DIVISION IX EXEMPTION REQUEST PROCESS

12.9(256) General accreditation standards exemption request

DIVISION X INDEPENDENT ACCREDITING AGENCIES

12.10(256) Independent accrediting agencies

CHAPTER 13 Reserved

CHAPTER 14 SCHOOL HEALTH SERVICES

14.1 and 14.2 Reserved

14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector
voluntary supply

14.4(256,280) Severability

CHAPTER 15 USE OF ONLINE LEARNING AND TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.1(256) Purpose

15.2(256) Definitions

DIVISION I USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.3(256) Interactivity

15.4(256) Course eligibility

- 15.5(256) Teacher preparation and accessibility
- 15.6(256) School responsibilities

DIVISION II
ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

- 15.7(256) School district responsibilities
- 15.8(256) Prohibition regarding open enrollment
- 15.9(256) Special education services

DIVISION III
IOWA LEARNING ONLINE (ILO)

- 15.10(256) Appropriate applications of ILO coursework
- 15.11(256) Inappropriate applications of ILO coursework; criteria for waiver
- 15.12(256) School and school district responsibilities
- 15.13(256) Department responsibilities
- 15.14(256) Enrollment in an ILO course

CHAPTER 16
STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

- 16.1(256C) Purpose
- 16.2(256C) Definitions
- 16.3(256C) Preschool program standards
- 16.4(256C) Collaboration requirements
- 16.5(256C) Applications for funding
- 16.6(256C) Application process
- 16.7(256C) Award contracts
- 16.8(256C) Contract termination
- 16.9(256C) Criteria for applications for funding
- 16.10(256C) Appeal of application denial or termination
- 16.11(256C) Finance
- 16.12(256C) Transportation
- 16.13(256C) Accountability requirements
- 16.14(256C) Monitoring
- 16.15(256C) Open enrollment not applicable

CHAPTER 17
OPEN ENROLLMENT

- 17.1(282) Intent and purpose
- 17.2(282) Definitions
- 17.3(282) Application process
- 17.4(282) Filing after the March 1 deadline—good cause
- 17.5(282) Filing after the March 1 deadline—harassment or serious health condition
- 17.6(282) Restrictions to open enrollment requests
- 17.7(282) Open enrollment for kindergarten
- 17.8(282) Requirements applicable to parents/guardians and students
- 17.9(282) Transportation
- 17.10(282) Method of finance
- 17.11(282) Special education students
- 17.12(282) Laboratory school provisions
- 17.13(282) Applicability
- 17.14(282) Voluntary diversity plans or court-ordered desegregation plans

CHAPTER 18 SCHOOL FEES

18.1(256)	Policy
18.2(256)	Fee policy
18.3(256)	Eligibility for waiver, partial waiver or temporary waiver of student fees
18.4(256)	Fees covered
18.5(256)	Effective date

CHAPTERS 19 and 20 Reserved

TITLE III *COMMUNITY COLLEGES*

CHAPTER 21 COMMUNITY COLLEGES

DIVISION I APPROVAL STANDARDS

21.1(260C)	Definitions
21.2(260C)	Administration
21.3	Reserved
21.4(260C)	Curriculum and evaluation
21.5(260C)	Library or learning resource center
21.6(260C)	Student services
21.7(260C)	Laboratories, equipment and supplies
21.8(260C)	Physical plant
21.9(260C)	Nonreimbursable facilities
21.10 to 21.19	Reserved

DIVISION II COMMUNITY COLLEGE ENERGY APPROPRIATIONS

21.20 to 21.29	Reserved
----------------	----------

DIVISION III INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.30(321J)	Purpose
21.31(321J)	Course
21.32(321J)	Tuition fee established
21.33(321J)	Administrative fee established
21.34(321J)	Advisory committee

DIVISION IV JOBS NOW CAPITALS ACCOUNT

21.35 to 21.44	Reserved
----------------	----------

DIVISION V STATE COMMUNITY COLLEGE FUNDING PLAN

21.45(260C)	Purpose
-------------	---------

DIVISION VI INTERCOLLEGIATE ATHLETIC COMPETITION

21.46 to 21.56	Reserved
----------------	----------

DIVISION VII QUALITY INSTRUCTIONAL CENTER INITIATIVE

21.57 to 21.63	Reserved
----------------	----------

DIVISION VIII PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE

21.64 to 21.71	Reserved
----------------	----------

DIVISION IX
APPRENTICESHIP PROGRAM

- 21.72(260C) Purpose
- 21.73(260C) Definitions
- 21.74(260C) Apprenticeship programs

DIVISION X
MISCELLANEOUS PROVISIONS

- 21.75(260C,82GA,SF358) Used motor vehicle dealer education program

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

- 22.1(261E) Scope
- 22.2(261E) Student eligibility
- 22.3(261E) Teacher eligibility, responsibilities
- 22.4(261E) Institutional eligibility, responsibilities
- 22.5 Reserved

DIVISION II
DEFINITIONS

- 22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

- 22.7(261E) School district obligations
- 22.8(261E) Obligations regarding registration for advanced placement examinations
- 22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

- 22.11(261E) Applicability
- 22.12 and 22.13 Reserved

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

- 22.14(261E) Availability
- 22.15(261E) Notification
- 22.16(261E) Student eligibility
- 22.17(261E) Eligible postsecondary courses
- 22.18(261E) Application process
- 22.19(261E) Credits
- 22.20(261E) Transportation
- 22.21(261E) Tuition payments
- 22.22(261E) Tuition reimbursements and adjustments
- 22.23 Reserved

DIVISION VI
CAREER ACADEMIES

- 22.24(261E) Career academies
- 22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

- 22.26(261E) Regional academies
- 22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

22.28(261E)	Internet-based coursework
22.29(261E)	ICN-based coursework
22.30 and 22.31	Reserved

DIVISION IX
PROJECT LEAD THE WAY

22.32(261E)	Project lead the way
-------------	----------------------

CHAPTER 23

ADULT EDUCATION AND LITERACY PROGRAMS

23.1(260C)	Definitions
23.2(260C)	State planning
23.3(260C)	Program administration
23.4(260C)	Career pathways
23.5(260C)	Student eligibility
23.6(260C)	Qualification of staff
23.7(260C)	High-quality professional development
23.8(260C)	Performance and accountability

CHAPTER 24

COMMUNITY COLLEGE ACCREDITATION

24.1(260C)	Purpose
24.2(260C)	Scope
24.3(260C)	Definitions
24.4(260C)	Accreditation components and criteria—Higher Learning Commission
24.5(260C)	Accreditation components and criteria—additional state standards
24.6(260C)	Accreditation process

CHAPTER 25

PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

25.1(260H,260I)	Scope
25.2(260H,260I)	Definitions
25.3 to 25.10	Reserved

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.11(260H)	Purpose
25.12(260H)	Target populations
25.13(260H)	Eligibility criteria for projects
25.14(260H)	Program component requirements
25.15(260H)	Pipeline program
25.16(260H)	Career pathways and bridge curriculum development program
25.17(260H)	Pathway navigators
25.18(260H)	Regional industry sector partnerships
25.19	Reserved

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.20(260I)	Purpose
25.21(260I)	Applicants for tuition assistance
25.22(260I)	Eligible costs

25.23(260I)	Eligible certificate programs
25.24(260I)	Initial assessment
25.25(260I)	Program interview
25.26(260I)	Participation requirements
25.27(260I)	Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
Reserved

CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

27.1(260C)	Purpose
27.2(260C)	Definitions
27.3(260C)	Funds allocation
27.4(260C)	Community college workforce and economic development fund plans and progress reports
27.5(260C)	Use of funds
27.6(260C)	Prior approval
27.7(260C)	Annual plan and progress report approval
27.8(260C)	Options upon default or noncompliance

CHAPTERS 28 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A)	Purpose and definitions
31.2(299)	Reports as to competent private instruction
31.3(299,299A)	Duties of privately retained licensed practitioners
31.4(299,299A)	Duties of licensed practitioners, home school assistance program
31.5(299A)	School district duties related to competent private instruction
31.6(299A)	Dual enrollment
31.7(299)	Open enrollment
31.8(299A)	Baseline evaluation and annual assessment
31.9(299A)	Reporting assessment results
31.10(299A)	Special education students
31.11(299,299A)	Independent private instruction
31.12(299,299A)	Miscellaneous provisions

CHAPTER 32
HIGH SCHOOL EQUIVALENCY DIPLOMA

32.1(259A)	Test
32.2(259A)	By whom administered
32.3(259A)	Minimum score
32.4(259A)	Effectiveness of test scores
32.5(259A)	Retest
32.6(259A)	Application fee
32.7(259A)	Diploma, transcript, verification fees
32.8(259A)	Admission to testing

CHAPTER 33 EDUCATING THE HOMELESS

33.1(256)	Purpose
33.2(256)	Definitions
33.3(256)	Responsibilities of the board of directors
33.4(256)	School records; student transfers
33.5(256)	Immunization requirements
33.6(256)	Waiver of fees and charges encouraged
33.7(256)	Waiver of enrollment requirements encouraged; placement
33.8(256)	Residency of homeless child or youth
33.9(256)	Dispute resolution
33.10(256)	Transportation of homeless children and youth
33.11(256)	School services

CHAPTER 34 FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS OR MENTAL HEALTH INSTITUTES

34.1(218)	Scope
34.2(218)	Definitions
34.3(218)	General principles
34.4(218)	Notification
34.5(218)	Program submission and approval
34.6(218)	Budget submission and approval
34.7(218)	Payments
34.8(218)	Payments to the AEA
34.9(218)	Contracting for services
34.10(218)	Accounting for average daily attendance
34.11(218)	Accounting for actual program costs
34.12(218)	Audit
34.13(218)	Hold-harmless provision
34.14(218,256B,34CFR300)	AEA services
34.15(218,233A,261C)	Postsecondary credit courses

CHAPTER 35 Reserved

TITLE VI *INTERSCHOLASTIC COMPETITION*

CHAPTER 36 EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

36.1(280)	Definitions
36.2(280)	Registered organizations
36.3(280)	Filings by organizations
36.4(280)	Executive board
36.5(280)	Federation membership
36.6(280)	Salaries
36.7(280)	Expenses
36.8(280)	Financial report
36.9(280)	Bond
36.10(280)	Audit
36.11(280)	Examinations by auditors
36.12(280)	Access to records
36.13(280)	Appearance before state board

- 36.14(280) Interscholastic athletics
- 36.15(280) Eligibility requirements
- 36.16(280) Executive board review
- 36.17(280) Appeals to director
- 36.18(280) Organization policies
- 36.19(280) Eligibility in situations of district organization change
- 36.20(280) Cooperative student participation

CHAPTER 37

EXTRACURRICULAR ATHLETIC ACTIVITY CONFERENCE FOR MEMBER SCHOOLS

- 37.1(280) Policy and purpose
- 37.2(280) Initial responsibility
- 37.3(280) Complaint to the director, department of education
- 37.4(280) Mediation
- 37.5(280) Resolution or recommendation of the mediation team
- 37.6(280) Decision
- 37.7(280) Effective date of the decision

CHAPTERS 38 to 40

Reserved

TITLE VII

SPECIAL EDUCATION

CHAPTER 41

SPECIAL EDUCATION

DIVISION I

PURPOSE AND APPLICABILITY

- 41.1(256B,34CFR300) Purposes
- 41.2(256B,34CFR300) Applicability of this chapter

DIVISION II

DEFINITIONS

- 41.3(256B,34CFR300) Act
- 41.4(256B,273) Area education agency
- 41.5(256B,34CFR300) Assistive technology device
- 41.6(256B,34CFR300) Assistive technology service
- 41.7(256B,34CFR300) Charter school
- 41.8(256B,34CFR300) Child with a disability
- 41.9(256B,34CFR300) Consent
- 41.10(256B,34CFR300) Core academic subjects
- 41.11(256B,34CFR300) Day; business day; school day
- 41.12(256B,34CFR300) Educational service agency
- 41.13(256B,34CFR300) Elementary school
- 41.14(256B,34CFR300) Equipment
- 41.15(256B,34CFR300) Evaluation
- 41.16(256B,34CFR300) Excess costs
- 41.17(256B,34CFR300) Free appropriate public education
- 41.18(256B,34CFR300) Highly qualified special education teachers
- 41.19(256B,34CFR300) Homeless children
- 41.20(256B,34CFR300) Include
- 41.21(256B,34CFR300) Indian and Indian tribe
- 41.22(256B,34CFR300) Individualized education program

- 41.23(256B,34CFR300) Individualized education program team
- 41.24(256B,34CFR300) Individualized family service plan
- 41.25(256B,34CFR300) Infant or toddler with a disability
- 41.26(256B,34CFR300) Institution of higher education
- 41.27(256B,34CFR300) Limited English proficient
- 41.28(256B,34CFR300) Local educational agency
- 41.29(256B,34CFR300) Native language
- 41.30(256B,34CFR300) Parent
- 41.31(256B,34CFR300) Parent training and information center
- 41.32(256B,34CFR300) Personally identifiable
- 41.33(256B,34CFR300) Public agency; nonpublic agency; agency
- 41.34(256B,34CFR300) Related services
- 41.35(34CFR300) Scientifically based research
- 41.36(256B,34CFR300) Secondary school
- 41.37(34CFR300) Services plan
- 41.38(34CFR300) Secretary
- 41.39(256B,34CFR300) Special education
- 41.40(34CFR300) State
- 41.41(256B,34CFR300) State educational agency
- 41.42(256B,34CFR300) Supplementary aids and services
- 41.43(256B,34CFR300) Transition services
- 41.44(34CFR300) Universal design
- 41.45(256B,34CFR300) Ward of the state
- 41.46 to 41.49 Reserved
- 41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
- 41.51(256B,34CFR300) Other definitions applicable to this chapter
- 41.52 to 41.99 Reserved

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

- 41.100(256B,34CFR300) Eligibility for assistance
- 41.101(256B,34CFR300) Free appropriate public education (FAPE)
- 41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
- 41.103(256B,34CFR300) FAPE—methods and payments
- 41.104(256B,34CFR300) Residential placement
- 41.105(256B,34CFR300) Assistive technology
- 41.106(256B,34CFR300) Extended school year services
- 41.107(256B,34CFR300) Nonacademic services
- 41.108(256B,34CFR300) Physical education
- 41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
- 41.110(256B,34CFR300) Program options
- 41.111(256B,34CFR300) Child find
- 41.112(256B,34CFR300) Individualized education programs (IEPs)
- 41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices
- 41.114(256B,34CFR300) Least restrictive environment (LRE)
- 41.115(256B,34CFR300) Continuum of alternative services and placements
- 41.116(256B,34CFR300) Placements
- 41.117(256B,34CFR300) Nonacademic settings
- 41.118(256B,34CFR300) Children in public or private institutions
- 41.119(256B,34CFR300) Technical assistance and training activities
- 41.120(256B,34CFR300) Monitoring activities
- 41.121(256B,34CFR300) Procedural safeguards

- 41.122(256B,34CFR300) Evaluation
- 41.123(256B,34CFR300) Confidentiality of personally identifiable information
- 41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
- 41.125 to 41.128 Reserved
- 41.129(256B,34CFR300) Responsibility regarding children in private schools
- 41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
- 41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
- 41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
- 41.133(256,256B,34CFR300) Expenditures
- 41.134(256,256B,34CFR300) Consultation
- 41.135(256,256B,34CFR300) Written affirmation
- 41.136(256,256B,34CFR300) Compliance
- 41.137(256,256B,34CFR300) Equitable services determined
- 41.138(256,256B,34CFR300) Equitable services provided
- 41.139(256,256B,34CFR300) Location of services and transportation
- 41.140(256,256B,34CFR300) Due process complaints and state complaints
- 41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
- 41.142(256,256B,34CFR300) Use of personnel
- 41.143(256,256B,34CFR300) Separate classes prohibited
- 41.144(256,256B,34CFR300) Property, equipment, and supplies
- 41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) to 281—41.147(256B,34CFR300)
- 41.146(256B,34CFR300) Responsibility of department
- 41.147(256B,34CFR300) Implementation by department
- 41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
- 41.149(256B,34CFR300) SEA responsibility for general supervision
- 41.150 Reserved
- 41.151(256B,34CFR300) Adoption of state complaint procedures
- 41.152(256B,34CFR300) Minimum state complaint procedures
- 41.153(256B,34CFR300) Filing a complaint
- 41.154(256B,34CFR300) Methods of ensuring services
- 41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
- 41.156(256B,34CFR300) Personnel qualifications
- 41.157 to 41.161 Reserved
- 41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
- 41.163(256B,34CFR300) Maintenance of state financial support
- 41.164 Reserved
- 41.165(256B,34CFR300) Public participation
- 41.166(256B,34CFR300) Rule of construction
- 41.167(256B,34CFR300) State advisory panel
- 41.168(256B,34CFR300) Advisory panel membership
- 41.169(256B,34CFR300) Advisory panel duties
- 41.170(256B,34CFR300) Suspension and expulsion rates
- 41.171 Reserved
- 41.172(256B,34CFR300) Access to instructional materials
- 41.173(256B,34CFR300) Overidentification and disproportionality
- 41.174(256B,34CFR300) Prohibition on mandatory medication
- 41.175 Reserved
- 41.176(256B) Special school provisions
- 41.177(256B) Facilities
- 41.178(256B) Materials, equipment and assistive technology

- 41.179 to 41.185 Reserved
- 41.186(256B,34CFR300) Assistance under other federal programs
- 41.187(256B) Research, innovation, and improvement
- 41.188 to 41.199 Reserved

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

- 41.200(256B,34CFR300) Condition of assistance
- 41.201(256B,34CFR300) Consistency with state policies
- 41.202(256B,34CFR300) Use of amounts
- 41.203(256B,34CFR300) Maintenance of effort
- 41.204(256B,34CFR300) Exception to maintenance of effort
- 41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
- 41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
- 41.207(256B,34CFR300) Personnel development
- 41.208(256B,34CFR300) Permissive use of funds
- 41.209(256B,34CFR300) Treatment of charter schools and their students
- 41.210(256B,34CFR300) Purchase of instructional materials
- 41.211(256B,34CFR300) Information for department
- 41.212(256B,34CFR300) Public information
- 41.213(256B,34CFR300) Records regarding migratory children with disabilities
- 41.214 to 41.219 Reserved
- 41.220(256B,34CFR300) Exception for prior local plans
- 41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
- 41.222(256B,34CFR300) AEA or LEA and state agency compliance
- 41.223(256B,34CFR300) Joint establishment of eligibility
- 41.224(256B,34CFR300) Requirements for jointly establishing eligibility
- 41.225 Reserved
- 41.226(256B,34CFR300) Early intervening services
- 41.227 Reserved
- 41.228(256B,34CFR300) State agency eligibility
- 41.229(256B,34CFR300) Disciplinary information
- 41.230(256B,34CFR300) SEA flexibility
- 41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

- 41.300(256B,34CFR300) Parental consent and participation
- 41.301(256B,34CFR300) Full and individual initial evaluations
- 41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
- 41.303(256B,34CFR300) Reevaluations
- 41.304(256B,34CFR300) Evaluation procedures
- 41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
- 41.306(256B,34CFR300) Determination of eligibility
- 41.307(256B,34CFR300) Specific learning disabilities
- 41.308(256B,34CFR300) Additional group members
- 41.309(256B,34CFR300) Determining the existence of a specific learning disability
- 41.310(256B,34CFR300) Observation
- 41.311(256B,34CFR300) Specific documentation for the eligibility determination
- 41.312(256B,34CFR300) General education interventions
- 41.313(256B,34CFR300) Systematic problem-solving process
- 41.314(256B,34CFR300) Progress monitoring and data collection
- 41.315 to 41.319 Reserved
- 41.320(256B,34CFR300) Definition of individualized education program

- 41.321(256B,34CFR300) IEP team
- 41.322(256B,34CFR300) Parent participation
- 41.323(256B,34CFR300) When IEPs must be in effect
- 41.324(256B,34CFR300) Development, review, and revision of IEP
- 41.325(256B,34CFR300) Private school placements by public agencies
- 41.326(256B,34CFR300) Other rules concerning IEPs
- 41.327(256B,34CFR300) Educational placements
- 41.328(256B,34CFR300) Alternative means of meeting participation
- 41.329 to 41.399 Reserved

DIVISION VI

ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

- 41.400(256B,34CFR300) Shared responsibility
- 41.401(256B,34CFR300) Licensure (certification)
- 41.402(256B,273,34CFR300) Authorized personnel
- 41.403(256B) Paraprofessionals
- 41.404(256B) Policies and procedures required of all public agencies
- 41.405(256B) Special health services
- 41.406(256B) Additional requirements of LEAs
- 41.407(256B,273,34CFR300) Additional requirements of AEAs
- 41.408(256B,273,34CFR300) Instructional services
- 41.409(256B,34CFR300) Support services
- 41.410(256B,34CFR300) Itinerant services
- 41.411(256B,34CFR300) Related services, supplementary aids and services
- 41.412(256B,34CFR300) Transportation
- 41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
- 41.414 to 41.499 Reserved

DIVISION VII

PROCEDURAL SAFEGUARDS

- 41.500(256B,34CFR300) Responsibility of SEA and other public agencies
- 41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
- 41.502(256B,34CFR300) Independent educational evaluation
- 41.503(256B,34CFR300) Prior notice by the public agency; content of notice
- 41.504(256B,34CFR300) Procedural safeguards notice
- 41.505(256B,34CFR300) Electronic mail
- 41.506(256B,34CFR300) Mediation
- 41.507(256B,34CFR300) Filing a due process complaint
- 41.508(256B,34CFR300) Due process complaint
- 41.509(256B,34CFR300) Model forms
- 41.510(256B,34CFR300) Resolution process
- 41.511(256B,34CFR300) Impartial due process hearing
- 41.512(256B,34CFR300) Hearing rights
- 41.513(256B,34CFR300) Hearing decisions
- 41.514(256B,34CFR300) Finality of decision
- 41.515(256B,34CFR300) Timelines and convenience of hearings
- 41.516(256B,34CFR300) Civil action
- 41.517(256B,34CFR300) Attorneys' fees
- 41.518(256B,34CFR300) Child's status during proceedings
- 41.519(256B,34CFR300) Surrogate parents
- 41.520(256B,34CFR300) Transfer of parental rights at age of majority
- 41.521 to 41.529 Reserved
- 41.530(256B,34CFR300) Authority of school personnel
- 41.531(256B,34CFR300) Determination of setting

- 41.532(256B,34CFR300) Appeal
- 41.533(256B,34CFR300) Placement during appeals and mediations
- 41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services
- 41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
- 41.536(256B,34CFR300) Change of placement because of disciplinary removals
- 41.537(256B,34CFR300) State enforcement mechanisms
- 41.538 to 41.599 Reserved

DIVISION VIII

MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

- 41.600(256B,34CFR300) State monitoring and enforcement
- 41.601(256B,34CFR300) State performance plans and data collection
- 41.602(256B,34CFR300) State use of targets and reporting
- 41.603(256B,34CFR300) Department review and determination regarding public agency performance
- 41.604(256B,34CFR300) Enforcement
- 41.605(256B,34CFR300) Withholding funds
- 41.606(256B,34CFR300) Public attention
- 41.607 Reserved
- 41.608(256B,34CFR300) State enforcement
- 41.609(256B,34CFR300) State consideration of other state or federal laws
- 41.610(256B,34CFR300) Confidentiality
- 41.611(256B,34CFR300) Definitions
- 41.612(256B,34CFR300) Notice to parents
- 41.613(256B,34CFR300) Access rights
- 41.614(256B,34CFR300) Record of access
- 41.615(256B,34CFR300) Records on more than one child
- 41.616(256B,34CFR300) List of types and locations of information
- 41.617(256B,34CFR300) Fees
- 41.618(256B,34CFR300) Amendment of records at parent's request
- 41.619(256B,34CFR300) Opportunity for a hearing
- 41.620(256B,34CFR300) Result of hearing
- 41.621(256B,34CFR300) Hearing procedures
- 41.622(256B,34CFR300) Consent
- 41.623(256B,34CFR300) Safeguards
- 41.624(256B,34CFR300) Destruction of information
- 41.625(256B,34CFR300) Children's rights
- 41.626(256B,34CFR300) Enforcement
- 41.627 to 41.639 Reserved
- 41.640(256B,34CFR300) Annual report of children served—report requirement
- 41.641(256B,34CFR300) Annual report of children served—information required in the report
- 41.642(256B,34CFR300) Data reporting
- 41.643(256B,34CFR300) Annual report of children served—certification
- 41.644(256B,34CFR300) Annual report of children served—criteria for counting children
- 41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
- 41.646(256B,34CFR300) Disproportionality
- 41.647 to 41.699 Reserved

DIVISION IX

ALLOCATIONS BY THE SECRETARY TO THE STATE

- 41.700 to 41.703 Reserved
- 41.704(256B,34CFR300) State-level activities
- 41.705(256B,34CFR300) Subgrants to AEAs
- 41.706 to 41.799 Reserved

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

- 41.800(256B,34CFR300) General rule
- 41.801 and 41.802 Reserved
- 41.803(256B,34CFR300) Definition of state
- 41.804(256B,34CFR300) Eligibility
- 41.805 Reserved
- 41.806(256B,34CFR300) Eligibility for financial assistance
- 41.807 to 41.811 Reserved
- 41.812(256B,34CFR300) Reservation for state activities
- 41.813(256B,34CFR300) State administration
- 41.814(256B,34CFR300) Other state-level activities
- 41.815(256B,34CFR300) Subgrants to AEAs
- 41.816(256B,34CFR300) Allocations to AEAs
- 41.817(256B,34CFR300) Reallocation of AEA funds
- 41.818(256B,34CFR300) Part C of the Act inapplicable
- 41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

- 41.900(256B,282) Scope
- 41.901(256B,282) Records and reports
- 41.902(256B,282) Audit
- 41.903(256B,282) Contractual agreements
- 41.904(256B) Research and demonstration projects and models for special education program development
- 41.905(256B,273) Additional special education
- 41.906(256B,273,282) Extended school year services
- 41.907(256B,282,34CFR300,303) Program costs
- 41.908(256B,282) Accountability
- 41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

- 41.1000(17A,256B,290) Applicability
- 41.1001(17A,256B,290) Definitions
- 41.1002(256B,34CFR300) Special education mediation conference
- 41.1003(17A,256B) Procedures concerning due process complaints
- 41.1004(17A,256B) Participants in the hearing
- 41.1005(17A,256B) Convening the hearing
- 41.1006(17A,256B) Stipulated record hearing
- 41.1007(17A,256B) Evidentiary hearing
- 41.1008(17A,256B) Mixed evidentiary and stipulated record hearing
- 41.1009(17A,256B) Witnesses
- 41.1010(17A,256B) Rules of evidence
- 41.1011(17A,256B) Communications
- 41.1012(17A,256B) Record
- 41.1013(17A,256B) Decision and review
- 41.1014(17A,256B) Finality of decision
- 41.1015(256B,34CFR300) Disqualification of mediator
- 41.1016(17A) Correcting decisions of administrative law judges
- 41.1017 to 41.1099 Reserved

DIVISION XIII

ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

41.1100(256B,34CFR300) References to Code of Federal Regulations

41.1101(256B,34CFR300) Severability

CHAPTER 42

Reserved

TITLE VIII

SCHOOL TRANSPORTATION

CHAPTER 43

PUPIL TRANSPORTATION

DIVISION I

TRANSPORTATION ROUTES

43.1(285) Intra-area education agency routes

43.2(285) Interarea education agency routes

DIVISION II

PRIVATE CONTRACTORS

43.3(285) Contract required

43.4(285) Uniform charge

43.5(285) Board must be party

43.6(285) Contract with parents

43.7(285) Vehicle requirements

DIVISION III

FINANCIAL RECORDS AND REPORTS

43.8(285) Required charges

43.9(285) Activity trips deducted

DIVISION IV

USE OF SCHOOL BUSES

43.10(285) Permitted uses listed

43.11(285) Teacher transportation

DIVISION V

THE BUS DRIVER

43.12(285) Driver qualifications

43.13(285) Stability factors

43.14(285) Driver age

43.15(285) Physical fitness

43.16 Reserved

43.17(285) Insulin-dependent diabetics

43.18(285) Authorization to be carried by driver

43.19 and 43.20 Reserved

43.21(285) Experience, traffic law knowledge and driving record

43.22(321) Fee collection and distribution of funds

43.23(285) Application form

43.24(321) Authorization denials and revocations

DIVISION VI

PURCHASE OF BUSES

43.25(285) Local board procedure

43.26(285) Financing

43.27 to 43.29 Reserved

DIVISION VII
MISCELLANEOUS REQUIREMENTS

- 43.30(285) Semiannual inspection
- 43.31(285) Maintenance record
- 43.32(285) Drivers' schools
- 43.33(285) Insurance
- 43.34(285) Contract—privately owned buses
- 43.35(285) Contract—district-owned buses
- 43.36(285) Accident reports
- 43.37(285) Railroad crossings
- 43.38(285) Driver restrictions
- 43.39(285) Civil defense projects
- 43.40(285) Pupil instruction
- 43.41(285) Trip inspections
- 43.42(285) Loading and unloading areas
- 43.43(285) Communication equipment

DIVISION VIII
COMMON CARRIERS

- 43.44(285) Standards for common carriers

CHAPTER 44
SCHOOL BUSES

- 44.1(285) Requirements for manufacturers
- 44.2(285) School bus—type classifications
- 44.3(285) School bus body and chassis specifications
- 44.4(285) Construction of vehicles for children with mobility challenges
- 44.5(285) Type III vehicles
- 44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
VOCATIONAL EDUCATION PROGRAMS

- 46.1(258) Standards for vocational education
- 46.2(258) Planning process
- 46.3(258) Public involvement and participation
- 46.4(258) Final plan and accountability report
- 46.5(258) Geographic area
- 46.6(258) Revised standards for vocational education
- 46.7(258) Definitions and descriptions of procedures

CHAPTER 47
CAREER ACADEMIES

- 47.1(260C) Definitions
- 47.2(260C) Career academy program of study

CHAPTER 48

STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

- 48.1(256) Purpose
- 48.2(256) Definitions
- 48.3(256) Statewide work-based learning intermediary network
- 48.4(256) Regional work-based learning intermediary network

CHAPTERS 49 and 50

Reserved

TITLE X

VETERANS' TRAINING

CHAPTER 51

APPROVAL OF ON-THE-JOB TRAINING ESTABLISHMENTS
UNDER THE MONTGOMERY G.I. BILL

- 51.1(256) Application
- 51.2(256) Content and approval of application
- 51.3(256) Wage schedules

CHAPTER 52

APPROVAL OF EDUCATIONAL INSTITUTIONS
FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS
UNDER THE MONTGOMERY G.I. BILL

- 52.1(256) Colleges
- 52.2(256) High schools
- 52.3 Reserved
- 52.4(256) Schools of Bible or theology
- 52.5(256) Schools of nursing
- 52.6(256) Hospitals
- 52.7(256) Schools of cosmetology
- 52.8(256) Schools of barbering
- 52.9 Reserved
- 52.10(256) Schools of business
- 52.11(256) Trade schools
- 52.12(256) Correspondence schools
- 52.13(256) Successful operation on a continuous basis
- 52.14(256) Nonaccredited schools
- 52.15(256) Evaluation standards

CHAPTERS 53 to 55

Reserved

TITLE XI

VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56

IOWA VOCATIONAL REHABILITATION SERVICES

DIVISION I

SCOPE AND GENERAL PRINCIPLES

- 56.1(259) Responsibility of division
- 56.2(259) Nondiscrimination

DIVISION II
DEFINITIONS

56.3(259) Definitions

DIVISION III
ELIGIBILITY

56.4(259) Individuals who are recipients of SSD/SSI
 56.5(259) Eligibility for vocational rehabilitation services
 56.6(259) Eligibility for specific services
 56.7(259) Areas in which exceptions shall not be granted
 56.8(259) Waiting list
 56.9(259) Individuals who are blind
 56.10(259) Students in high school
 56.11(259) Establishment of financial need

DIVISION IV
CASE MANAGEMENT

56.12(259) Case finding and intake
 56.13(259) Case diagnosis
 56.14(259) Individual plan for employment (IPE)

DIVISION V
SERVICES

56.15(259) Scope of services
 56.16(259) Training
 56.17(259) Maintenance
 56.18(259) Transportation
 56.19(259) Rehabilitation technology
 56.20 Reserved
 56.21(259) Placement
 56.22(259) Progressive employment
 56.23(259) Miscellaneous or auxiliary services
 56.24(259) Facilities
 56.25(259) Exceptions to payment for services
 56.26(259) Exceptions to duration of services
 56.27(259) Maximum rates of payment to training facilities

DIVISION VI
PURCHASING PRINCIPLES

56.28(259) Purchasing

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

56.29(259) Review process
 56.30(259) Supervisor review
 56.31(259) Mediation
 56.32(259) Hearing before impartial hearing officer

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

56.33(259) Collection and maintenance of records
 56.34(259) Personally identifiable information
 56.35(259) Other groups of records routinely available for public inspection

DIVISION IX
STATE REHABILITATION COUNCIL

56.36(259) State rehabilitation council

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

56.37(259) Purpose
56.38(259) Eligibility requirements
56.39(259) Application procedure
56.40(259) Award of technical assistance funds
56.41(259) Business plan feasibility study procedure
56.42(259) Award of financial assistance funds

CHAPTER 57
Reserved

TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58
SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS
FOR OTHER FOODS AND BEVERAGES

58.1(283A,256) Authority

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

58.2(283A) Definitions
58.3(283A) Agreement required
58.4(283A) State plan
58.5(283A) Service area defined
58.6(283A) School breakfast program
58.7(283A) School lunch program
58.8(283A) Procurement

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.9(256) Definitions
58.10(256) Scope
58.11(256) Nutritional content standards

CHAPTER 59
GIFTED AND TALENTED PROGRAMS

59.1(257) Scope and general principles
59.2(257) Definitions
59.3 Reserved
59.4(257) Program plan
59.5(257) Responsibilities of school districts
59.6(257) Responsibilities of area education agencies
59.7(257) Responsibilities of the department

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

60.1(280) Scope
60.2(280) Definitions
60.3(280) School district responsibilities
60.4(280) Department responsibility

- 60.5(280) Nonpublic school participation
- 60.6(280) Funding

CHAPTER 61

IOWA READING RESEARCH CENTER

- 61.1(256) Establishment
- 61.2(256) Purpose
- 61.3(256) Intensive summer literacy program
- 61.4(256) First efforts of the center
- 61.5(256) Nature of the center's operation
- 61.6(256) Nature of the center's products
- 61.7(256) Governance and leadership of the center
- 61.8(256) Financing of the center
- 61.9(256) Annual report

CHAPTER 62

STATE STANDARDS FOR PROGRESSION IN READING

- 62.1(256,279) Purpose
- 62.2(256,279) Assessment of reading proficiency
- 62.3(256,279) Tools for evaluating and reevaluating reading proficiency
- 62.4(256,279) Identification of a student as having a substantial deficiency in reading
- 62.5(256,279) Intensive summer reading program
- 62.6(256,279) Successful progression for early readers
- 62.7(256,279) Promotion to grade four
- 62.8(256,279) Good-cause exemption
- 62.9(256,279) Ensuring continuous improvement in reading proficiency
- 62.10(256,279) Miscellaneous provisions

CHAPTER 63

EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

- 63.1(282) Scope
- 63.2(282) Definitions
- 63.3(282) Forms
- 63.4(282) Budget amendments
- 63.5(282) Area education agency responsibility
- 63.6(282) Educational program
- 63.7(282) Special education
- 63.8(282) Educational services
- 63.9(282) Media services
- 63.10(282) Other responsibilities
- 63.11(282) Curriculum
- 63.12(282) Disaster procedures
- 63.13(282) Maximum class size
- 63.14(282) Teacher certification and preparation
- 63.15(282) Aides
- 63.16(282) Accounting
- 63.17(282) Revenues
- 63.18(282) Expenditures
- 63.19(282) Claims
- 63.20(282) Audits
- 63.21(282) Waivers

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

64.1(256A,279)	Purpose
64.2(256A,279)	Definitions
64.3(256A,279)	Child development coordinating council
64.4(256A,279)	Procedures
64.5(256A,279)	Duties
64.6(256A,279)	Eligibility identification procedures
64.7(256A,279)	Primary eligibility
64.8(256A,279)	Secondary eligibility
64.9(256A,279)	Grant awards criteria
64.10(256A,279)	Application process
64.11(256A,279)	Request for proposals
64.12(256A,279)	Grant process
64.13(256A,279)	Award contracts
64.14(256A,279)	Notification of applicants
64.15(256A,279)	Grantee responsibilities
64.16(256A,279)	Withdrawal of contract offer
64.17(256A,279)	Evaluation
64.18(256A,279)	Contract revisions and budget reversions
64.19(256A,279)	Termination for convenience
64.20(256A,279)	Termination for cause
64.21(256A,279)	Responsibility of grantee at termination
64.22(256A,279)	Appeal from terminations
64.23(256A,279)	Refusal to issue ruling
64.24(256A,279)	Request for Reconsideration
64.25(256A,279)	Refusal to issue decision on request
64.26(256A,279)	Granting a Request for Reconsideration

CHAPTER 65
INNOVATIVE PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

65.1(279)	Purpose
65.2(279)	Definitions
65.3(279)	Eligibility identification procedures
65.4(279)	Primary risk factor
65.5(279)	Secondary risk factors
65.6(279)	Grant awards criteria
65.7(279)	Application process
65.8(279)	Request for proposals
65.9(279)	Grant process
65.10	Reserved
65.11(279)	Notification of applicants
65.12(279)	Grantee responsibilities
65.13(279)	Withdrawal of contract offer
65.14(279)	Evaluation
65.15(279)	Contract revisions
65.16(279)	Termination for convenience
65.17(279)	Termination for cause
65.18(279)	Responsibility of grantee at termination
65.19(279)	Appeals from terminations
65.20(279)	Refusal to issue ruling
65.21(279)	Requests for Reconsideration

- 65.22(279) Refusal to issue decision on request
- 65.23(279) Granting a Request for Reconsideration

CHAPTER 66

SCHOOL-BASED YOUTH SERVICES PROGRAMS

- 66.1(279) Scope, purpose and general principles
- 66.2(279) Definitions
- 66.3(279) Development of a program plan
- 66.4(279) Program plan
- 66.5(279) Evaluation of financial support
- 66.6(279) Responsibilities of area education agencies
- 66.7(279) Responsibilities of the department of education

CHAPTER 67

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF AT-RISK CHILDREN AGED BIRTH THROUGH FIVE YEARS

- 67.1(279) Purpose
- 67.2(279) Definitions
- 67.3(279) Eligibility identification procedures
- 67.4(279) Eligibility
- 67.5(279) Secondary eligibility
- 67.6(279) Grant awards criteria
- 67.7(279) Application process
- 67.8(279) Request for proposals
- 67.9(279) Award contracts
- 67.10(279) Notification of applicants
- 67.11(279) Grantee responsibilities
- 67.12(279) Withdrawal of contract offer
- 67.13(279) Evaluation
- 67.14(279) Contract revisions
- 67.15(279) Termination for convenience
- 67.16(279) Termination for cause
- 67.17(279) Responsibility of grantee at termination
- 67.18(279) Appeal from terminations
- 67.19(279) Refusal to issue ruling
- 67.20(279) Request for Reconsideration
- 67.21(279) Refusal to issue decision on request
- 67.22(279) Granting a Request for Reconsideration

CHAPTER 68

IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I GENERAL PROVISIONS

- 68.1(256F,83GA,SF2033) Purpose
- 68.2(256F,83GA,SF2033) Definitions

DIVISION II CHARTER SCHOOLS

- 68.3(256F,83GA,SF2033) Application to a school board
- 68.4(256F,83GA,SF2033) Review process
- 68.5(256F,83GA,SF2033) Ongoing review by department
- 68.6(256F,83GA,SF2033) Renewal of charter
- 68.7(256F,83GA,SF2033) Revocation of charter
- 68.8 to 68.10 Reserved

DIVISION III
INNOVATION ZONE SCHOOLS

- 68.11(256F,83GA,SF2033) Application process
- 68.12(256F,83GA,SF2033) Review process
- 68.13(256F,83GA,SF2033) Ongoing review by department
- 68.14(256F,83GA,SF2033) Renewal of contract
- 68.15(256F,83GA,SF2033) Revocation of contract

CHAPTER 69
Reserved

TITLE XIII
AREA EDUCATION AGENCIES

CHAPTERS 70 and 71
Reserved

CHAPTER 72
ACCREDITATION OF AREA EDUCATION AGENCIES

- 72.1(273) Scope
- 72.2(273) Definitions
- 72.3(273) Accreditation components
- 72.4(273) Standards for services
- 72.5 to 72.8 Reserved
- 72.9(273) Comprehensive improvement plan
- 72.10(273) Annual budget and annual progress report
- 72.11(273) Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76
Reserved

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

- 77.1(256) General statement
- 77.2(256) Definitions
- 77.3(256) Institutions affected
- 77.4(256) Criteria for Iowa teacher intern preparation programs
- 77.5(256) Approval of programs
- 77.6(256) Periodic reports
- 77.7(256) Approval of program changes
- 77.8(256) Governance and resources
- 77.9(256) Diversity
- 77.10(256) Faculty
- 77.11(256) Teacher intern selection
- 77.12(256) Curriculum and instruction
- 77.13(256) Candidate support
- 77.14(256) Candidate assessment
- 77.15(256) Program evaluation

CHAPTER 78
Reserved

CHAPTER 79 STANDARDS FOR PRACTITIONER AND ADMINISTRATOR PREPARATION PROGRAMS

DIVISION I

GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.1(256) General statement
- 79.2(256) Definitions
- 79.3(256) Institutions affected
- 79.4(256) Criteria for practitioner preparation programs
- 79.5(256) Approval of programs
- 79.6(256) Visiting teams
- 79.7(256) Periodic reports
- 79.8(256) Reevaluation of practitioner preparation programs
- 79.9(256) Approval of program changes

DIVISION II

SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.10(256) Governance and resources standard
- 79.11(256) Diversity standard
- 79.12(256) Faculty standard
- 79.13(256) Assessment system and unit evaluation standard

DIVISION III

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION PROGRAMS FOR TEACHER CANDIDATES

- 79.14(256) Teacher preparation clinical practice standard
- 79.15(256) Teacher candidate knowledge, skills and dispositions standard

DIVISION IV

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

- 79.16(256) Administrator preparation clinical practice standard
- 79.17(256) Administrator knowledge, skills, and dispositions standard
- 79.18 Reserved

DIVISION V

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

- 79.19(256) Purpose
- 79.20(256) Clinical practice standard
- 79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80 STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

- 80.1(272) General statement
- 80.2(272) Definitions
- 80.3(272) Institutions affected
- 80.4(272) Criteria for Iowa paraeducator preparation programs
- 80.5(272) Application; approval of programs
- 80.6(272) Periodic reports
- 80.7(272) Reevaluation of paraeducator preparation programs
- 80.8(272) Approval of program changes
- 80.9(272) Organizational and resource standards
- 80.10(272) Diversity standards
- 80.11(272) Faculty standards
- 80.12(272) Program assessment and evaluation standards
- 80.13(272) Clinical practice standards

CHAPTER 81

STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

- 81.1(256) Definitions
- 81.2(256) Institutions eligible to provide a school business official preparation program
- 81.3(256) Approval of programs
- 81.4(256) Governance and resources standard
- 81.5(256) Instructor standard
- 81.6(256) Assessment system and institution evaluation standard
- 81.7(256) School business official candidate knowledge and skills standards and criteria
- 81.8(256) School business official mentoring program
- 81.9(256) Periodic reports
- 81.10(256) Reevaluation of school business official preparation programs
- 81.11(256) Approval of program changes

CHAPTER 82

STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

- 82.1(272) Definitions
- 82.2(272) Organizations eligible to provide a school administration manager training program
- 82.3(272) Approval of training programs
- 82.4(272) Governance and resources standard
- 82.5(272) Trainer and coach standard
- 82.6(272) Assessment system and organization evaluation standard
- 82.7(272) School administration manager knowledge and skills standards and criteria
- 82.8(272) Periodic reports
- 82.9(272) Reevaluation of school administration manager programs
- 82.10(272) Approval of program changes and flexibility of programs
- 82.11(272) Fees

CHAPTER 83

TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I

GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND
TEACHER QUALITY PROGRAMS

- 83.1(284,284A) Purposes
- 83.2(284,284A) Definitions

DIVISION II

SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

- 83.3(284) Mentoring and induction program for beginning teachers
- 83.4(284) Iowa teaching standards and criteria
- 83.5(284) Evaluator approval training
- 83.6(284) Professional development for teachers
- 83.7(284) Teacher quality committees

DIVISION III

SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

- 83.8(284A) Administrator quality program
- 83.9(284A) Mentoring and induction program for administrators
- 83.10(284A) Iowa school leadership standards and criteria for administrators
- 83.11(284A) Evaluation
- 83.12(284A) Professional development of administrators

CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

- 84.1(256) Purpose
- 84.2(256) Definitions
- 84.3(256) Registration fee reimbursement program
- 84.4(256) NBC annual award
- 84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93
Reserved

TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94
ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM

- 94.1(256) Purpose
- 94.2(256) Eligibility identification procedures
- 94.3(256) Grant award procedure
- 94.4(256) Application process
- 94.5(256) Request for proposals
- 94.6(256) Grant process
- 94.7(256) Awards contract
- 94.8(256) Notification of applicants
- 94.9(256) Grantee responsibility

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

- 95.1(256) Purpose
- 95.2(256) Definitions
- 95.3(256) Equal employment opportunity standards
- 95.4(256) Duties of boards of directors
- 95.5(256) Plan components
- 95.6(256) Dissemination
- 95.7(256) Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE/LOCAL OPTION SALES AND
SERVICES TAX FOR SCHOOL INFRASTRUCTURE

- 96.1(423E,423F) Definitions
- 96.2(423E,423F) Reports to the department
- 96.3(423E,423F) Combined actual enrollment
- 96.4(423E,423F) Application and certificate of need process
- 96.5(423E,423F) Review process
- 96.6(423E,423F) Award process
- 96.7(423E,423F) Applicant responsibilities
- 96.8(423E,423F) Appeal of certificate denial

CHAPTER 97 SUPPLEMENTARY WEIGHTING

97.1(257)	Definitions
97.2(257)	Supplementary weighting plan
97.3(257)	Supplementary weighting plan for at-risk students
97.4(257)	Supplementary weighting plan for a regional academy
97.5(257)	Supplementary weighting plan for whole-grade sharing
97.6(257)	Supplementary weighting plan for ICN video services
97.7(257)	Supplementary weighting plan for operational services

CHAPTER 98 FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I GENERAL PROVISIONS

98.1(256,257)	Definitions
98.2(256,257)	General finance
98.3 to 98.10	Reserved

DIVISION II APPROPRIATE USE OF BUDGETARY ALLOCATIONS

98.11(257)	Categorical and noncategorical student counts
98.12(257,299A)	Home school assistance program
98.13(256C,257)	Statewide voluntary four-year-old preschool program
98.14(257)	Supplementary weighting
98.15(257)	Operational function sharing supplementary weighting
98.16(257,280)	Limited English proficiency (LEP) weighting
98.17(256B,257)	Special education weighting
98.18(257)	At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting
98.19(257)	Reorganization incentive weighting
98.20(257)	Gifted and talented program
98.21(257)	At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount
98.22(257)	Use of the unexpended general fund balance
98.23(256D,257)	Iowa early intervention block grant, also known as early intervention supplement
98.24(257,284)	Teacher salary supplement
98.25(257,284)	Teacher leadership supplement
98.26(257,284)	Educator quality professional development, also known as professional development supplement
98.27 to 98.39	Reserved

DIVISION III APPROPRIATE USE OF GRANTS IN AID

98.40(256,257,298A)	Grants in aid
98.41	Reserved
98.42(257,284)	Beginning teacher mentoring and induction program
98.43(257,284A)	Beginning administrator mentoring and induction program
98.44(257,301)	Nonpublic textbook services
98.45(279)	Early literacy
98.46 to 98.59	Reserved

DIVISION IV

APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

- 98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds
- 98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund
- 98.62(279,296,298,670) Management fund
- 98.63(298) Library levy fund
- 98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund
- 98.65(276,300) Public educational and recreational levy (PERL) fund
- 98.66(257,279,298A,565) District support trust fund
- 98.67(257,279,298A,565) Permanent funds
- 98.68(76,274,296,298,298A) Debt service fund
- 98.69(76,273,298,298A,423E,423F) Capital projects fund
- 98.70(279,280,298A) Student activity fund
- 98.71(298A) Entrepreneurial education fund
- 98.72(256B,257,298A) Special education instruction fund
- 98.73(282,298A) Juvenile home program instruction fund
- 98.74(283A,298A) School nutrition fund
- 98.75(279,298A) Child care and before- and after-school programs fund
- 98.76(298A) Regular education preschool fund
- 98.77(298A) Student construction fund
- 98.78(298A) Other enterprise funds
- 98.79 to 98.81 Reserved
- 98.82(298A) Internal service funds
- 98.83 to 98.91 Reserved
- 98.92(257,279,298A,565) Private purpose trust funds
- 98.93(298A) Other trust funds
- 98.94 to 98.100 Reserved
- 98.101(298A) Agency funds
- 98.102 to 98.110 Reserved
- 98.111(24,29C,257,298A) Emergency levy fund
- 98.112(275) Equalization levy fund

CHAPTER 99

BUSINESS PROCEDURES AND DEADLINES

- 99.1(257) Definitions
- 99.2(256,257,285,291) Submission deadlines
- 99.3(257) Good cause for late submission
- 99.4(24,256,257,291) Budgets, accounting and reporting

CHAPTER 100

Reserved

TITLE XVII

PROTECTION OF CHILDREN

CHAPTER 101

Reserved

CHAPTER 102
PROCEDURES FOR CHARGING AND
INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES

102.1(280)	Statement of intent and purpose
102.2(280)	Definitions
102.3(280)	Jurisdiction
102.4(280)	Exceptions
102.5(280)	Duties of school authorities
102.6(280)	Filing of a report
102.7(280)	Receipt of report
102.8(280)	Duties of designated investigator—physical abuse allegations
102.9(280)	Duties of designated investigator—sexual abuse allegations
102.10(280)	Content of investigative report
102.11(280)	Founded reports—designated investigator’s duties
102.12(280)	Level-two investigator’s duties
102.13(280)	Retention of records
102.14(280)	Substantial compliance
102.15(280)	Effective date

CHAPTER 103
CORPORAL PUNISHMENT BAN; RESTRAINT;
PHYSICAL CONFINEMENT AND DETENTION

103.1(256B,280)	Purpose
103.2(256B,280)	Ban on corporal punishment
103.3(256B,280)	Exclusions
103.4(256B,280)	Exceptions and privileges
103.5(256B,280)	Reasonable force
103.6(256B,280)	Physical confinement and detention
103.7(256B,280)	Additional minimum mandatory procedures
103.8(256B,280)	Additional provisions concerning physical restraint

CHAPTERS 104 to 119
Reserved

TITLE XVIII
EARLY CHILDHOOD

CHAPTER 120
EARLY ACCESS INTEGRATED SYSTEM OF
EARLY INTERVENTION SERVICES

DIVISION I
PURPOSE AND APPLICABILITY

120.1(34CFR303)	Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
120.2(34CFR303)	Applicability of this chapter
120.3(34CFR303)	Applicable federal regulations

DIVISION II
DEFINITIONS

120.4(34CFR303)	Act
120.5(34CFR303)	At-risk infant or toddler
120.6(34CFR303)	Child
120.7(34CFR303)	Consent

120.8(34CFR303) Council
 120.9(34CFR303) Day
 120.10(34CFR303) Developmental delay
 120.11(34CFR303) Early intervention service program
 120.12(34CFR303) Early intervention service provider
 120.13(34CFR303) Early intervention services
 120.14(34CFR303) Elementary school
 120.15(34CFR303) Free appropriate public education
 120.16(34CFR303) Health services
 120.17(34CFR303) Homeless children
 120.18(34CFR303) Include; including
 120.19(34CFR303) Indian; Indian tribe
 120.20(34CFR303) Individualized family service plan
 120.21(34CFR303) Infant or toddler with a disability
 120.22(34CFR303) Lead agency
 120.23(34CFR303) Local educational agency
 120.24(34CFR303) Multidisciplinary
 120.25(34CFR303) Native language
 120.26(34CFR303) Natural environments
 120.27(34CFR303) Parent
 120.28(34CFR303) Parent training and information center
 120.29(34CFR303) Personally identifiable information
 120.30(34CFR303) Public agency
 120.31(34CFR303) Qualified personnel
 120.32(34CFR303) Scientifically based research
 120.33(34CFR303) Secretary
 120.34(34CFR303) Service coordination services (case management)
 120.35(34CFR303) State
 120.36(34CFR303) State educational agency
 120.37(34CFR303) Ward of the state
 120.38(34CFR303) Other definitions used in this chapter
 120.39 to 120.99 Reserved

DIVISION III
 STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
 FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

120.100(34CFR303) General authority
 120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
 120.102(34CFR303) State conformity with Part C of the Act
 120.103 and 120.104 Reserved
 120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
 120.106 to 120.109 Reserved
 120.110(34CFR303) Minimum components of a statewide system
 120.111(34CFR303) State definition of developmental delay
 120.112(34CFR303) Availability of early intervention services
 120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures
 120.114(34CFR303) Individualized family service plan (IFSP)
 120.115(34CFR303) Comprehensive child find system
 120.116(34CFR303) Public awareness program
 120.117(34CFR303) Central directory
 120.118(34CFR303) Comprehensive system of personnel development (CSPD)
 120.119(34CFR303) Personnel standards

120.120(34CFR303)	Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
120.121(34CFR303)	Policy for contracting or otherwise arranging for services
120.122(34CFR303)	Reimbursement procedures
120.123(34CFR303)	Procedural safeguards
120.124(34CFR303)	Data collection
120.125(34CFR303)	State interagency coordinating council
120.126(34CFR303)	Early intervention services in natural environments
120.127 to 120.199	Reserved

DIVISION IV
STATE APPLICATION AND ASSURANCES

120.200(34CFR303)	State application and assurances
120.201(34CFR303)	Designation of lead agency
120.202(34CFR303)	Certification regarding financial responsibility
120.203(34CFR303)	Statewide system and description of services
120.204	Reserved
120.205(34CFR303)	Description of use of funds
120.206(34CFR303)	Referral policies for specific children
120.207(34CFR303)	Availability of resources
120.208(34CFR303)	Public participation policies and procedures
120.209(34CFR303)	Transition to preschool and other programs
120.210(34CFR303)	Coordination with Head Start and Early Head Start, early education, and child care programs
120.211	Reserved
120.212(34CFR303)	Additional information and assurances
120.213 to 120.219	Reserved
120.220(34CFR303)	Assurances satisfactory to the Secretary
120.221(34CFR303)	Expenditure of funds
120.222(34CFR303)	Payor of last resort
120.223(34CFR303)	Control of funds and property
120.224(34CFR303)	Reports and records
120.225(34CFR303)	Prohibition against supplanting; indirect costs
120.226(34CFR303)	Fiscal control
120.227(34CFR303)	Traditionally underserved groups
120.228(34CFR303)	Subsequent state application and modifications of application
120.229 to 120.299	Reserved

DIVISION V
CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

120.300(34CFR303)	General
120.301(34CFR303)	Public awareness program—information for parents
120.302(34CFR303)	Comprehensive child find system
120.303(34CFR303)	Referral procedures
120.304 to 120.309	Reserved
120.310(34CFR303)	Post-referral timeline (45 calendar days)
120.311 to 120.319	Reserved
120.320(34CFR303)	Screening procedures
120.321(34CFR303)	Evaluation of the child and assessment of the child and family
120.322(34CFR303)	Determination that a child is not eligible
120.323 to 120.339	Reserved
120.340(34CFR303)	Individualized family service plan—general
120.341	Reserved
120.342(34CFR303)	Procedures for IFSP development, review, and evaluation

120.343(34CFR303)	IFSP team meeting and periodic review
120.344(34CFR303)	Content of an IFSP
120.345(34CFR303)	Interim IFSPs—provision of services before evaluations and assessments are completed
120.346(34CFR303)	Responsibility and accountability
120.347 to 120.399	Reserved

DIVISION VI
PROCEDURAL SAFEGUARDS

120.400(34CFR303)	General responsibility of lead agency for procedural safeguards
120.401(34CFR303)	Confidentiality and opportunity to examine records
120.402(34CFR303)	Confidentiality
120.403(34CFR303)	Definitions
120.404(34CFR303)	Notice to parents
120.405(34CFR303)	Access rights
120.406(34CFR303)	Record of access
120.407(34CFR303)	Records on more than one child
120.408(34CFR303)	List of types and locations of information
120.409(34CFR303)	Fees for records
120.410(34CFR303)	Amendment of records at a parent's request
120.411(34CFR303)	Opportunity for a hearing
120.412(34CFR303)	Result of hearing
120.413(34CFR303)	Hearing procedures
120.414(34CFR303)	Consent prior to disclosure or use
120.415(34CFR303)	Safeguards
120.416(34CFR303)	Destruction of information
120.417(34CFR303)	Enforcement
120.418 and 120.419	Reserved
120.420(34CFR303)	Parental consent and ability to decline services
120.421(34CFR303)	Prior written notice and procedural safeguards notice
120.422(34CFR303)	Surrogate parents
120.423 to 120.429	Reserved
120.430(34CFR303)	State dispute resolution options
120.431(34CFR303)	Mediation
120.432(34CFR303)	Adoption of state complaint procedures
120.433(34CFR303)	Minimum state complaint procedures
120.434(34CFR303)	Filing a complaint
120.435(34CFR303)	Appointment of an administrative law judge
120.436(34CFR303)	Parental rights in due process hearing proceedings
120.437(34CFR303)	Convenience of hearings and timelines
120.438(34CFR303)	Civil action
120.439(34CFR303)	Limitation of actions
120.440(34CFR303)	Rule of construction
120.441(34CFR303)	Attorney fees
120.442 to 120.448	Reserved
120.449(34CFR303)	State enforcement mechanisms
120.450 to 120.499	Reserved

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

120.500(34CFR303)	Use of funds, payor of last resort, and system of payments
120.501(34CFR303)	Permissive use of funds by the department
120.502 to 120.509	Reserved
120.510(34CFR303)	Payor of last resort

120.511(34CFR303)	Methods to ensure the provision of, and financial responsibility for, Early ACCESS services
120.512 to 120.519	Reserved
120.520(34CFR303)	Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services
120.521(34CFR303)	System of payments and fees
120.522 to 120.599	Reserved

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

120.600(34CFR303)	Establishment of council
120.601(34CFR303)	Composition
120.602(34CFR303)	Meetings
120.603(34CFR303)	Use of funds by the council
120.604(34CFR303)	Functions of the council; required duties
120.605(34CFR303)	Authorized activities by the council
120.606 to 120.699	Reserved

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

120.700(34CFR303)	State monitoring and enforcement
120.701(34CFR303)	State performance plans and data collection
120.702(34CFR303)	State use of targets and reporting
120.703(34CFR303)	Department review and determination regarding EIS program performance
120.704(34CFR303)	Enforcement
120.705(34CFR303)	Withholding funds
120.706(34CFR303)	Public attention
120.707	Reserved
120.708(34CFR303)	State enforcement
120.709(34CFR303)	State consideration of other state or federal laws
120.710 to 120.719	Reserved
120.720(34CFR303)	Data requirements—general
120.721(34CFR303)	Annual report of children served—report requirement
120.722(34CFR303)	Data reporting
120.723(34CFR303)	Annual report of children served—certification
120.724(34CFR303)	Annual report of children served—other responsibilities of the department
120.725 to 120.800	Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303)	Early ACCESS system—state level
120.802(34CFR303)	Interagency service planning
120.803(34CFR303)	System-level disputes
120.804(34CFR303)	Early ACCESS system—regional and community levels
120.805(34CFR303)	Provision of year-round services
120.806(34CFR303)	Evaluation and improvement
120.807(34CFR303)	Research
120.808(34CFR303)	Records and reports
120.809(34CFR303)	Information for department
120.810(34CFR303)	Public information
120.811(34CFR303)	Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303)	References to federal law
120.813(34CFR303)	Severability

CHAPTER 12
GENERAL ACCREDITATION STANDARDS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 4]

PREAMBLE

The goal for the early childhood through twelfth grade educational system in Iowa is to improve the learning, achievement, and performance of all students so they become successful members of a community and workforce. It is expected that each school and school district shall continue to improve its educational system so that more students will increase their learning, achievement, and performance.

Accreditation focuses on an ongoing school improvement process for schools and school districts. However, general accreditation standards are the minimum requirements that must be met by an Iowa public school district to be accredited. A public school district that does not maintain accreditation shall be merged, by the state board of education, with one or more contiguous school districts as required by Iowa Code subsection 256.11(12). A nonpublic school must meet the general accreditation standards if it wishes to be designated as accredited for operation in Iowa.

General accreditation standards are intended to fulfill the state's responsibility for making available an appropriate educational program that has high expectations for all students in Iowa. The accreditation standards ensure that each child has access to an educational program that meets the needs and abilities of the child regardless of race, color, national origin, gender, disability, religion, creed, marital status, geographic location, sexual orientation, gender identity, or socioeconomic status.

With local community input, school districts and accredited nonpublic schools shall incorporate accountability for student achievement into comprehensive school improvement plans designed to increase the learning, achievement, and performance of all students. As applicable, and to the extent possible, comprehensive school improvement plans shall consolidate federal and state program goal setting, planning, and reporting requirements. Provisions for multicultural and gender fair education, technology integration, global education, gifted and talented students, at-risk students, students with disabilities, and the professional development of all staff shall be incorporated, as applicable, into the comprehensive school improvement plan. See subrules 12.5(8) to 12.5(13), 12.7(1), and 12.8(1).

DIVISION I
GENERAL STANDARDS

281—12.1(256) General standards.

12.1(1) *Schools and school districts governed by general accreditation standards.* These standards govern the accreditation of all prekindergarten, if offered, or kindergarten through grade 12 school districts operated by public school corporations and the accreditation, if requested, of prekindergarten or kindergarten through grade 12 schools operated under nonpublic auspices. Each school district shall take affirmative steps to integrate students in attendance centers and courses. Schools and school districts shall collect and annually review district, attendance center, and course enrollment data on the basis of race, national origin, gender, and disability. Equal opportunity in programs shall be provided to all students regardless of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, socioeconomic status, disability, religion, or creed. Nothing in this rule shall be construed as prohibiting any bona fide religious institution from imposing qualifications based upon religion when such qualifications are related to a bona fide religious purpose.

12.1(2) *School board.* Each school or school district shall be governed by an identifiable authority which shall exercise the functions necessary for the effective operation of the school and referred to in these rules as the "board."

12.1(3) *Application for accreditation.* The board of any school or school district that is not accredited on the effective date of these standards and which seeks accreditation shall file an application with the director, department of education, on or before the first day of January of the school year preceding the school year for which accreditation is sought.

12.1(4) Accredited schools and school districts. Each school or school district receiving accreditation under the provisions of these standards shall remain accredited except when by action of the state board of education it is removed from the list of accredited schools maintained by the department of education in accordance with Iowa Code subsections 256.11(11) and 256.11(12).

12.1(5) When nonaccredited. A school district shall be nonaccredited on the day after the date it is removed from the list of accredited schools by action of the state board of education. A nonpublic school shall be nonaccredited on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

12.1(6) Alternative provisions for accreditation. School districts may meet accreditation requirements through the provisions of Iowa Code sections 256.13, nonresident students; 273.7A, services to school districts; 279.20, superintendent—term; 280.15, joint employment and sharing; 282.7, attending in another corporation—payment; and 282.10, whole grade sharing. Nonpublic schools may meet accreditation requirements through the provisions of Iowa Code section 256.12.

12.1(7) Minimum school calendar: set by annual hours or days of instruction. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall adopt a school calendar that sets the number of days or hours of required attendance for student instruction, staff development and in-service time, and time for parent-teacher conferences. Prior to adopting the school calendar, the board of directors of a school district shall hold a public hearing on any proposed school calendar. The board and authorities in charge of an accredited nonpublic school shall notify the department annually of their decision to have a calendar based on days or based on hours. The length of the school calendar does not dictate the length of contract hours or days of employment for instructional and noninstructional staff. Time recorded under either a days or hours calendar system may include passing time between classes but shall exclude the lunch period. Time spent on parent-teacher conferences shall be considered instructional time. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10 as amended by 2013 Iowa Acts, House File 215, section 81. A minimum of 180 days or 1,080 hours of instruction shall be set in the school calendar, for school districts and accredited nonpublic schools beginning no sooner than a day during the calendar week in which the first day of September falls, and shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the requirements of “day of school” for those districts or accredited nonpublic schools that are utilizing a schedule based on days, defined in paragraph 12.1(8) “a,” “minimum school day” defined in subrule 12.1(9), and “day or hour of attendance” defined in subrule 12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days or 30 hours of instruction after school or school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school district’s requirements for graduation may be excused from attendance during the extended school calendar. A school district may begin employment of instructional and noninstructional staff, for in-service training and development purposes, earlier than the first day of school. A school or school district choosing a schedule based on hours shall follow the definition of “hour of school” set forth in paragraph 12.1(8) “b.”

12.1(8) Day and hour of school.

a. Day of school. A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that the time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days or 1,080 hours of instruction for all grades 1 through 12.

b. Hour of school. For schools or school districts adopting a calendar based on a 1,080-hour minimum schedule, an official hour of school is an hour in which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. For

purposes of this rule, an “hour” is defined as 60 minutes. The calculation of minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. Schools or school districts have flexibility on how they can reach the threshold of 1,080 hours of instruction but must keep annual documentation of how they met that standard. The school calendar may include more than or less than or may equal the 180-day schedule. The hours included in an individual day under an hours format may vary.

12.1(9) *Minimum school day.* A school day, for those utilizing a school calendar based on days, shall consist of a minimum of 6 hours of instructional time for all grades 1 through 12. The minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the 6-hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff.

12.1(10) *Day or hour of attendance.* A day or hour of attendance shall be a day or hour during which students were present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board or by authorities in charge of an accredited nonpublic school occurs outside of the time required for a “minimum school day,” students shall be counted in attendance.

12.1(11) *Kindergarten.* The number of instructional days or hours within the school calendar and the length of the school day for kindergarten shall be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program.

[ARC 1115C, IAB 10/16/13, effective 11/20/13]

DIVISION II DEFINITIONS

281—12.2(256) Definitions. For purposes of these rules, the following definitions shall apply:

“Alternative options education programs” means alternative programs or schools as identified in Iowa Code section 280.19A.

“Alternative program” means a class or environment established within the regular educational program and designed to accommodate specific student educational needs such as, but not limited to, work-related training; reading, mathematics or science skills; communication skills; social skills; physical skills; employability skills; study skills; or life skills.

“Alternative school” means an environment established apart from the regular educational program and that includes policies and rules, staff, and resources designed to accommodate student needs and to provide a comprehensive education consistent with the student learning goals and content standards established by the school district or by the school districts participating in a consortium. Students attend by choice.

“Annual improvement goals” means the desired one-year rate of improvement for students. Data from multiple measures may be used to determine the rate of improvement.

“At-risk student” means any identified student who needs additional support and who is not meeting or not expected to meet the established goals of the educational program (academic, personal/social, career/vocational). At-risk students include but are not limited to students in the following groups: homeless children and youth, dropouts, returning dropouts, and potential dropouts.

“Baseline data” means information gathered at a selected point in time and used thereafter as a basis from which to monitor change.

“Benchmarks” means specific knowledge and skills anchored to content standards that a student needs to accomplish by a specific grade or grade span.

“Board” means the board of directors in charge of a public school district or the authorities in charge of an accredited nonpublic school.

“Competency-based education” means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of 12.5(14) to be awarded credit in a competency-based system of education.

“Comprehensive school improvement plan” means a design that shall describe how the school or school district will increase student learning, achievement, and performance. This ongoing improvement design may address more than student learning, achievement, and performance.

“Content standards” means broad statements about what students are expected to know and be able to do.

“Curriculum” means a plan that outlines what students shall be taught. Curriculum refers to all the courses offered, or all the courses offered in a particular area of study.

“Department” means the department of education.

“Districtwide” means all attendance centers within a school district or accredited nonpublic school.

“Districtwide assessments” means large-scale achievement or performance measures. At least one districtwide assessment shall allow for the following: the comparison of the same group of students over time as they progress through the grades or the cross-sectional comparison of students at the same grades over multiple years.

“Districtwide progress” means the quantifiable change in school or school district student achievement and performance.

“Dropout” means a school-age student who is served by a public school district and enrolled in any of grades seven through twelve and who does not attend school or withdraws from school for a reason other than death or transfer to another approved school or school district or has been expelled with no option to return.

“Educational program.” The educational program adopted by the board is the entire offering of the school, including out-of-class activities and the sequence of curriculum areas and activities. The educational program shall provide articulated, developmental learning experiences from the date of student entrance until high school graduation.

“Enrolled student” means a person that has officially registered with the school or school district and is taking part in the educational program.

“Incorporate” means integrating career education, multicultural and gender fair education, technology education, global education, higher-order thinking skills, learning skills, and communication skills into the total educational program.

“Indicators” provide information about the general status, quality, or performance of an educational system.

“Library program” means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district’s curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district’s administration and instructional staff. The library program services provided to students and staff shall include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies.

“Long-range goals” means desired targets to be reached over an extended period of time.

“Multiple assessment measures,” for reporting to the local community or the state, means more than one valid and reliable instrument that quantifies districtwide student learning, including specific grade-level data.

“Performance levels.” The federal Elementary and Secondary Education Act (ESEA) requires that at least three levels of performance be established to assist in determining which students have or have not achieved a satisfactory or proficient level of performance. At least two of those three levels shall describe what all students ought to know or be able to do if their achievement or performance is deemed proficient or advanced. The third level shall describe students who are not yet performing at the proficient level. A school or school district may establish more than three performance levels that include all students for districtwide or other assessments.

“Physical activity” means any movement, manipulation, or exertion of the body that can lead to improved levels of physical fitness and quality of life.

“Potential dropouts” means resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

1. High rate of absenteeism, truancy, or frequent tardiness.
2. Limited or no extracurricular participation or lack of identification with school including, but not limited to, expressed feelings of not belonging.
3. Poor grades including, but not limited to, failing in one or more school subjects or grade levels.
4. Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

“Prekindergarten program” includes a school district’s implementation of the preschool program established pursuant to 2007 Iowa Acts, House File 877, section 2, and is otherwise described herein in subrule 12.5(1).

“Proficient,” as it relates to content standards, characterizes student performance at a level that is acceptable by the school or school district.

“Returning dropouts” means resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in a public school in the district.

“School” means an accredited nonpublic school.

“School counseling program” means an articulated sequential kindergarten through grade 12 program that is comprehensive in scope, preventive in design, developmental in nature, driven by data, and integral to the school district’s curricula and instructional program. The program is implemented by at least one school counselor, appropriately licensed by the board of educational examiners, who works collaboratively with the district’s administration and instructional staff. The program standards are described in subrule 12.3(11). The program’s delivery system components shall include the following:

1. School guidance curriculum;
2. Support of the overall school curriculum;
3. Individual student planning;
4. Responsive services; and
5. System support.

“School district” means a public school district.

“School improvement advisory committee” means a committee, as defined in Iowa Code section 280.12, that is appointed by the board. Committee membership shall include students, parents, teachers, administrators, and representatives from the local community which may include business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation of the following: race, gender, national origin, and disability. The school improvement advisory committee as defined by Iowa Code section 280.12 and the board are also part of, but not inclusive of, the local community.

“Student learning goals” means general statements of expectations for all graduates.

“Students with disabilities” means students who have individualized education programs regardless of the disability.

“Subgroups” means a subset of the student population that has a common characteristic. Subgroups include, but are not limited to, gender, race, students with disabilities, and socioeconomic status.

“Successful employment in Iowa” may be determined by, but is not limited to, reviewing student achievement and performance based on locally identified indicators such as earnings, educational attainment, reduced unemployment, and the attainment of employability skills.
[ARC 7783B, IAB 5/20/09, effective 6/24/09; ARC 1116C, IAB 10/16/13, effective 11/20/13]

DIVISION III
ADMINISTRATION

281—12.3(256) Administration. The following standards shall apply to the administration of accredited schools and school districts.

12.3(1) Board records. Each board shall adopt by written policy a system for maintaining accurate records. The system shall provide for recording and maintaining the minutes of all board meetings, coding all receipts and expenditures, and recording and filing all reports required by the Iowa Code or requested by the director of the department of education. Financial records of school districts shall be maintained in a manner as to be easily audited according to accepted accounting procedures.

12.3(2) Policy manual. The board shall develop and maintain a policy manual which provides a codification of its policies, including the adoption date, the review date, and any revision date for each policy. Policies shall be reviewed at least every five years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

12.3(3) Personnel evaluation. Each board shall adopt evaluation criteria and procedures for all contracted staff. The evaluation processes shall conform to Iowa Code sections 279.14 and 279.23A.

12.3(4) Student records. Each board shall require its administrative staff to establish and maintain a system of student records. This system shall include for each student a permanent office record and a cumulative record.

The permanent office record shall serve as a historical record of official information concerning the student’s education. The permanent office record shall be recorded and maintained under the student’s legal name. At a minimum, the permanent office record should contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure backup file.

The cumulative record shall provide a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the “working record” used by the instructional professional staff in understanding the student. At the request of a receiving school or school district, a copy of the cumulative record shall be sent to officials of that school when a student transfers.

For the sole purpose of implementing an interagency agreement with state and local agencies in accordance with Iowa Code section 280.25, a student’s permanent record may include information contained in the cumulative record as defined above.

The board shall adopt a policy concerning the accessibility and confidentiality of student records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974 and Iowa Code chapter 22.

12.3(5) Requirements for graduation. Each board providing a program through grade 12 shall adopt a policy establishing the requirements students must meet for high school graduation. This policy shall make provision for early graduation and shall be consistent with these requirements, Iowa Code section 280.14, and the requirements in the introductory paragraph of subrule 12.5(5).

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall

include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies shall ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board shall also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, disability, religion, creed, or socioeconomic status.

The board shall publicize its support of these policies, its support of the staff in enforcing them, and the staff's accountability for implementing them.

12.3(7) *Health services.* Rescinded IAB 12/5/07, effective 1/9/08.

12.3(8) *Audit of school funds.* This subrule applies to school districts. The results of the annual audit of all school district funds conducted by the state auditor or a private auditing firm shall be made part of the official records of the board as described in Iowa Code section 11.6.

12.3(9) *School or school district building grade-level organization.* The board shall adopt a grade-level organization for the buildings under its jurisdiction as described in Iowa Code section 279.39.

12.3(10) *Report on accredited nonpublic school students.* Rescinded IAB 12/5/07, effective 1/9/08.

12.3(11) *Standards for school counseling programs.* The board of directors of each school district shall establish a K-12 comprehensive school counseling program, driven by student data and based on standards in academic, career, personal, and social areas, which supports the student achievement goals of the total school curriculum and to which all students have equitable access.

a. A qualified school counselor, licensed by the board of educational examiners, who works collaboratively with students, teachers, support staff and administrators shall direct the program and provide services and instruction in support of the curricular goals of each attendance center. The school counselor shall be the member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The school counselor and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on the following:

(1) Sequentially presented curriculum, programs, and responsive services that address growth and development of all students; and

(2) Attainment of student competencies in academic, career, personal, and social areas.

b. The program shall be regularly reviewed and revised and shall be designed to provide all of the following:

(1) Curriculum that is embedded throughout the district's overall curriculum and systemically delivered by the school counselor in collaboration with instructional staff through classroom and group activities and that consists of structured lessons to help students achieve desired competencies and to provide all students with the knowledge and skills appropriate for their developmental levels;

(2) Individual student planning through ongoing systemic activities designed to help students establish educational and career goals to develop future plans;

(3) Responsive services through intervention and curriculum that meet students' immediate and future needs as occasioned by events and conditions in students' lives and that may require any of the following: individual or group counseling; consultation with parents, teachers, and other educators; referrals to other school support services or community resources; peer helping; and information; and

(4) Systemic support through management activities that establish, maintain, and enhance the total school counseling program, including professional development, consultation, collaboration, program management, and operations.

12.3(12) *Standards for library programs.* The board of directors of each school district shall establish a K-12 library program to support the student achievement goals of the total school curriculum.

a. A qualified teacher librarian, licensed by the board of educational examiners, who works with students, teachers, support staff and administrators shall direct the library program and provide services and instruction in support of the curricular goals of each attendance center. The teacher librarian shall be a member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The teacher librarian and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on promoting inquiry and critical thinking; providing information literacy learning experiences to help students access, evaluate, use, create, and communicate information; enhancing learning and teaching through technology; and promoting literacy through reader guidance and activities that develop capable and independent readers.

b. The library program shall be regularly reviewed and revised and shall be designed to meet the following goals:

- (1) To provide for methods to improve library collections to meet student and staff needs;
- (2) To make connections with parents and the community;
- (3) To support the district's school improvement plan;
- (4) To provide access to or support for professional development for the teacher librarian;
- (5) To provide current technology and electronic resources to ensure that students become skillful and discriminating users of information;
- (6) To include a current and diverse collection of fiction and nonfiction materials in a variety of formats to support student and curricular needs; and
- (7) To include a plan for annually updating and replacing library materials, supports, and equipment.

c. The board of directors of each school district shall adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources, including plagiarism and intellectual property rights.

12.3(13) *Policy declaring harassment and bullying against state and school policy.* The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

- (1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.
- (2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, a witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying consistent with the following: Harassment and bullying shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on the student's actual or perceived age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status, and which creates an objectively hostile school environment that meets one or more of the following conditions:

- (1) Places the student in reasonable fear of harm to the student's person or property.
- (2) Has a substantially detrimental effect on the student's physical or mental health.
- (3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

The local board policy must set forth all 17 of the above-enumerated traits or characteristics, but does not need to be limited to the 17 enumerated traits or characteristics.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, identifying either the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this subrule.

g. A statement of the manner in which the policy will be publicized.

The board shall integrate its policy into its comprehensive school improvement plan. The board shall develop and maintain a system to collect harassment and bullying incidence data, and report such data, on forms specified by the department, to the local community and to the department.

[ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter)]

DIVISION IV SCHOOL PERSONNEL

281—12.4(256) School personnel. License/certificate and endorsement standards required in this rule relate to licenses/certificates and endorsements issued by the state board of educational examiners. The following standards shall apply to personnel employed in accredited schools.

12.4(1) *Instructional professional staff.* Each person who holds a license/certificate endorsed for the service for which that person is employed shall be eligible for classification as a member of the instructional professional staff.

12.4(2) *Noninstructional professional staff.* A person who holds a statement of professional recognition, including but not limited to a physician, dentist, nurse, speech therapist, or a person in one of the other noninstructional professional areas designated by the state board of education, shall be eligible for classification as a member of the noninstructional professional staff.

12.4(3) *Basis for approval of professional staff.* Each member of the professional staff shall be classified as either instructional or noninstructional. An instructional professional staff member shall be regarded as approved when holding either an appropriate license/certificate with endorsement or endorsements, or a license/certificate with an endorsement statement, indicating the specific teaching assignments that may be given. A noninstructional professional staff member shall be regarded as approved when holding a statement of professional recognition for the specific type of noninstructional professional school service for which employed.

12.4(4) *Required administrative personnel.* Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for "superintendency services" as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as an elementary principal or as a high school principal in that school or school district provided that the superintendent holds the proper licensure/certification. For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4).

12.4(5) *Staffing policies—elementary schools.* The board operating an elementary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school shall employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.

When grades seven and eight are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools shall apply. When grades seven and eight are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools shall apply.

12.4(6) *Staffing policies—secondary schools.* The board operating a secondary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school shall employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position may be combined with that of superintendent, but one person may not serve as elementary principal, secondary principal, and superintendent.

12.4(7) *Principal.* “Principal” means a licensed/certificated member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program.

12.4(8) *Teacher.* A teacher shall be defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school’s objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school’s objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures.

12.4(9) *Educational assistant.* An educational assistant shall be defined as an employee who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff, supervises students or assists in providing instructional and other direct educational services to students and their families. An educational assistant shall not substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

During the initial year of employment, an educational assistant shall complete staff development approved by the board as provided in subrule 12.7(1).

12.4(10) *Record of license/certificate or statement of professional recognition.* The board shall require each administrator, teacher, support service staff member, and noninstructional professional staff member on its staff to supply evidence that each holds a license/certificate or statement of professional recognition which is in force and valid for the type of position in which employed.

12.4(11) *Record required regarding teacher and administrative assignments.* The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file shall consist of legal licenses/certificates or copies thereof for all members of the instructional professional staff, including substitute teachers, showing that they are eligible for the position in which employed. The official shall also maintain on file a legal license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records shall be on file at the beginning of and throughout each school year and shall be updated annually to reflect all professional growth.

On December 1 of each year, the official shall verify to the department of education the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report shall be on forms provided by the department of education and shall identify all persons holding authorizations and their specific assignment(s) with the authorization(s).

12.4(12) Nurses. The board of each school district shall employ a school nurse and shall require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10).

12.4(13) Prekindergarten staff. Prekindergarten teachers shall hold a license/certificate valid for the prekindergarten level. The board shall employ personnel as necessary to provide effective supervision and instruction in the prekindergarten program.

12.4(14) Physical examination. Rescinded IAB 2/22/12, effective 3/28/12.

12.4(15) Support staff. The board shall develop and implement procedures for the use of educational support staff to augment classroom instruction and to meet individual student needs. These staff members may be employed by the board or by the area education agency.

12.4(16) Volunteer. A volunteer shall be defined as an individual who, without compensation or remuneration, provides a supportive role and performs tasks under the direction, supervision, and control of the school or school district staff. A volunteer shall not work as a substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

[ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter)]

DIVISION V EDUCATION PROGRAM

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation with the start of the 1989-1990 school year.

12.5(1) Prekindergarten program. If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child's developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. A prekindergarten teacher shall hold a license/certificate licensing/certifying that the holder is qualified to teach in prekindergarten. A nonpublic school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

12.5(2) Kindergarten program. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be licensed/certificated to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subrule only if the nonpublic school offers a kindergarten program.

12.5(3) Elementary program, grades 1-6. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art.

In implementing the elementary program standards, the following general curriculum definitions shall be used.

a. English-language arts. English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The following shall be taught: oral and written composition; communication processes and skills, including handwriting and spelling; literature; creative dramatics; and reading.

b. Social studies. Social studies instruction shall include citizenship education, history, and social sciences. Democratic beliefs and values, problem-solving skills, and social and political participation

skills shall be incorporated. Instruction shall encompass geography, history of the United States and Iowa, and cultures of other peoples and nations. American citizenship, including the study of national, state, and local government; and the awareness of the physical, social, emotional and mental self shall be infused in the instructional program.

c. Mathematics. Mathematics instruction shall include number sense and numeration; concepts and computational skills with whole numbers, fractions, mixed numbers and decimals; estimation and mental arithmetic; geometry; measurement; statistics and probability; and patterns and relationships. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science. Science instruction shall include life, earth, and physical science and shall incorporate hands-on process skills; scientific knowledge; application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease, and the characteristics of communicable diseases, including acquired immune deficiency syndrome.

f. Physical education. Physical education instruction shall include movement experiences and body mechanics; fitness activities; rhythmic activities; stunts and tumbling; simple games and relays; sports skills and activities; and water safety.

g. Traffic safety. Traffic safety instruction shall include pedestrian safety; bicycle safety; auto passenger safety; school bus passenger safety; seat belt use; substance education; and the application of legal responsibility and risk management to these concepts.

h. Music. Music instruction shall include skills, knowledge, and attitudes and shall include singing and playing music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; and preparing for consuming, performing, or composing.

i. Visual art. Visual art instruction shall include perceiving, comprehending, and evaluating the visual world; viewing and understanding the visual arts; developing and communicating imaginative and inventive ideas; and making art.

12.5(4) Junior high program, grades 7 and 8. The following shall be taught in grades 7 and 8: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, music, visual art, family and consumer education, career education, and technology education. Instruction in the following areas shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups, and shall be designed to eliminate career and employment stereotypes.

In implementing the junior high program standards, the following general curriculum definitions shall be used.

a. English-language arts. Same definition as in 12.5(3) "a" with the exclusion of handwriting.

b. Social studies. Social studies instruction shall include citizenship education, history and social sciences. Democratic beliefs and values, problem-solving skills, and social and political participation skills shall be incorporated. Instruction shall encompass history, economics, geography, government including American citizenship, behavioral sciences, and the cultures of other peoples and nations. Strategies for continued development of positive self-perceptions shall be infused.

c. Mathematics. Mathematics instruction shall include number and number relationships including ratio, proportion, and percent; number systems and number theory; estimation and computation; geometry; measurement; statistics and probability; and algebraic concepts of variables, patterns, and functions. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and

connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science. Same definition as in 12.5(3)“d.”

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease and the characteristics of communicable diseases, including sexually transmitted diseases and acquired immune deficiency syndrome.

f. Physical education. Physical education shall include the physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

g. Music. Same definition as in 12.5(3)“h” with the addition of using music as an avocation or vocation.

h. Visual art. Same definition as in 12.5(3)“i” with the addition of using visual arts as an avocation or vocation.

i. Family and consumer education. Family and consumer education instruction shall include the development of positive self-concept, understanding personal growth and development and relationships with peers and family members in the home, school and community, including men, women, minorities and persons with disabilities. Subject matter emphasizes the home and family, including parenting, child development, textiles and clothing, consumer and resource management, foods and nutrition, housing, and family and individual health. This subrule shall not apply to nonpublic schools.

j. Career education. Career education instruction shall include exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives. This subrule shall not apply to nonpublic schools. However, nonpublic schools shall comply with subrule 12.5(7).

k. Technology education. Technology education instruction shall include awareness of technology and its impact on society and the environment; furthering students’ career development by contributing to their scientific principles, technical information and skills to solve problems related to an advanced technological society; and orienting students to technologies which impact occupations in all six of the required service areas. The purpose of this instruction is to help students become technologically literate and become equipped with the necessary skills to cope with, live in, work in, and contribute to a highly technological society. This subrule shall not apply to nonpublic schools.

l. Secondary credit.

(1) An individual pupil in a grade that precedes ninth grade may be allowed to take a course for secondary credit if all of the following are true:

1. The pupil satisfactorily completes the course.
2. The course is taught by a teacher licensed by the Iowa board of educational examiners for grades 9-12 and endorsed in the subject area.
3. The course meets all components listed in subrule 12.5(5) for the specific curricular area.
4. The board of the school district or the authorities in charge of the nonpublic school have developed enrollment criteria that a student must meet to be enrolled in the course.

(2) Neither school districts nor accredited nonpublic schools are mandated to offer secondary credit under this paragraph. If credit is offered under this paragraph, the credit must apply toward graduation requirements of the district or accredited nonpublic school.

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(14). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, 12 units as specified in 12.5(5)“i.” Beginning with the 2010-2011 school year graduating class, all students in schools and school districts shall satisfactorily complete at least four units of

English-language arts, three units of mathematics, three units of science, three units of social studies, and one full unit of physical education as conditions of graduation. The three units of social studies may include the existing graduation requirements of one-half unit of United States government and one unit of United States history.

In implementing the high school program standards, the following curriculum standards shall be used.

a. English-language arts (six units). English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The program shall encompass communication processes and skills; written composition; speech; debate; American, English, and world literature; creative dramatics; and journalism.

b. Social studies (five units). Social studies instruction shall include citizenship education, history, and the social sciences. Instruction shall encompass the history of the United States and the history and cultures of other peoples and nations including the analysis of persons, events, issues, and historical evidence reflecting time, change, and cause and effect. Instruction in United States government shall include an overview of American government through the study of the United States Constitution, the bill of rights, the federal system of government, and the structure and relationship between the national, state, county, and local governments; and voter education including instruction in statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. Students' knowledge of the Constitution and the bill of rights shall be assessed. Economics shall include comparative and consumer studies in relation to the market and command economic systems. Geography shall include the earth's physical and cultural features, their spatial arrangement and interrelationships, and the forces that affect them. Sociology, psychology, and anthropology shall include the scientific study of the individual and group behavior(s) reflecting the impact of these behaviors on persons, groups, society, and the major institutions in a society. Democratic beliefs and values, problem-solving skills, and social and political skills shall be incorporated. All students in grades nine through twelve must, as a condition of graduation, complete a minimum of one-half unit of United States government and one unit of United States history and receive instruction in the government of Iowa.

c. Mathematics (six units). Mathematics instruction shall include:

(1) Four sequential units which are preparatory to postsecondary educational programs. These units shall include strands in algebra, geometry, trigonometry, statistics, probability, and discrete mathematics. Mathematical concepts, operations, and applications shall be included for each of these strands. These strands shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

(2) Two additional units shall be taught. These additional units may include mathematical content as identified in, but not limited to, paragraphs 12.5(3) "c," 12.5(4) "c," and 12.5(5) "c" (1). These units are to accommodate the locally identified needs of the students in the school or school district. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science (five units). Science instruction shall include biological, earth, and physical science, including physics and chemistry. Full units of chemistry and physics shall be taught but may be offered in alternate years. All science instruction shall incorporate hands-on process skills; scientific knowledge; the application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. Health (one unit). Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; human growth and

development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including sexually transmitted diseases and acquired immune deficiency syndrome, current crucial health issues, human sexuality, self-esteem, stress management, and interpersonal relationships.

f. Physical education (one unit). Physical education shall include the physical fitness activities that increase cardiovascular endurance, muscular strength and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

All physically able students shall be required to participate in the program for a minimum of one-eighth unit during each semester they are enrolled except as otherwise provided in this paragraph. A twelfth-grade student may be excused from this requirement by the principal of the school in which the student is enrolled under one of the following circumstances:

(1) The student is enrolled in a cooperative, work-study, or other educational program authorized by the school which requires the student's absence from the school premises during the school day.

(2) The student is enrolled in academic courses not otherwise available.

(3) An organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

Students in grades nine through eleven may be excused from the physical education requirement in order to enroll in academic courses not otherwise available to the student if the board of directors of the school district in which the school is located, or the authorities in charge of the school, if the school is a nonpublic school, determine that students from the school may be permitted to be excused from the physical education requirement.

A student may be excused by the principal of the school in which the student is enrolled, in consultation with the student's counselor, for up to one semester, trimester, or the equivalent of a semester or trimester, per year if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. The student seeking to be excused from the physical education requirement must, at some time during the period for which the excuse is sought, be a participant in an organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

The student's parent or guardian must request the excuse in writing. The principal shall inform the superintendent that the student has been excused.

g. Fine arts (three units). Fine arts instruction shall include at least two of the following:

(1) Dance. Dance instruction shall encompass developing basic movement skills; elementary movement concepts; study of dance forms and dance heritage; participating in dance; and evaluating dance as a creative art; and using dance as an avocation or vocation.

(2) Music. Music instruction shall include skills, knowledge, and attitudes and the singing and playing of music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; preparing for consuming, performing, or composing; and using music as an avocation or vocation.

(3) Theatre. Theatre instruction shall encompass developing the internal and external resources used in the theatre process; creating theatre through artistic collaboration; relating theatre to its social context; forming aesthetic judgments; and using theatre as an avocation or vocation.

(4) Visual art. Visual art instruction shall include developing concepts and values about natural and created environments; critiquing works of art; evaluating relationships between art and societies; analyzing, abstracting, and synthesizing visual forms to express ideas; making art; and using visual art as an avocation or vocation.

h. Foreign language (four units). The foreign language program shall be a four-unit sequence of uninterrupted study in at least one language. Foreign language instruction shall include listening comprehension appropriate to the level of instruction; rateable oral proficiency; reading comprehension appropriate to the level of instruction; writing proficiency appropriate to the level of instruction and cultural awareness.

All high schools shall offer and teach the first two units of the sequence. The third and fourth units must be offered. However, the department of education may, on an annual basis, waive the

third and fourth unit requirements upon the request of the board. The board must document that a licensed/certificated teacher was employed and assigned a schedule that would have allowed students to enroll, that the class was properly scheduled, that students were aware of the course offerings, and that no students enrolled.

i. Vocational education—school districts (three units each in at least four of the six service areas). A minimum of three sequential units, of which only one may be a core unit, shall be taught in four of the following six service areas: agricultural education, business and office education, health occupations education, home economics education, industrial education, and marketing education. The instruction shall be competency-based; shall provide a base of knowledge which will prepare students for entry level employment, additional on-the-job training, and postsecondary education within their chosen field; shall be articulated with postsecondary programs of study, including apprenticeship programs; shall reinforce basic academic skills; shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups. Vocational core courses may be used in more than one vocational service area. Multioccupations may be used to complete a sequence in more than one vocational service area; however, a core course(s) and multioccupations cannot be used in the same sequence. If a district elects to use multioccupations to meet the requirements in more than one service area, documentation must be provided to indicate that a sufficient variety of quality training stations be available to allow students to develop occupational competencies. A district may apply for a waiver if an innovative plan for meeting the instructional requirement for the standard is submitted to and approved by the director of the department of education.

The instructional programs also shall comply with the provisions of Iowa Code chapter 258 relating to vocational education. Advisory committee/councils designed to assist vocational education planning and evaluation shall be composed of public members with emphasis on persons representing business, agriculture, industry, and labor. The membership of local advisory committees/councils will fairly represent each gender and minority residing in the school district. The accreditation status of a school district failing to comply with the provisions of this subrule shall be governed by 281—subrule 46.7(10), paragraph “g.”

(1) A service area is the broad category of instruction in the following occupational cluster areas (definitions are those used in these rules):

(2) “Agricultural education programs” prepare individuals for employment in agriculture-related occupations. Such programs encompass the study of applied sciences and business management principles, as they relate to agriculture. Agricultural education focuses on, but is not limited to, study in horticulture, forestry, conservation, natural resources, agricultural products and processing, production of food and fiber, aquaculture and other agricultural products, mechanics, sales and service, economics marketing, and leadership development.

(3) “Business and office education programs” prepare individuals for employment in varied occupations involving such activities as planning, organizing, directing, and controlling all business office systems and procedures. Instruction offered includes such activities as preparing, transcribing, systematizing, preserving communications; analyzing financial records; receiving and disbursing money; gathering, processing and distributing information; and performing other business and office duties.

(4) “Health occupations education programs” prepare individuals for employment in a variety of occupations concerned with providing care in the areas of wellness, prevention of disease, diagnosis, treatment, and rehabilitation. Instruction offered encompasses varied activities in such areas as dental science, medical science, diagnostic services, treatment therapy, patient care areas, rehabilitation services, record keeping, emergency care, and health education. Many occupations in this category require licensing or credentialing to practice, or to use a specific title.

(5) “Home economics education programs” encompass two categories of instructional programs:

1. “Consumer and family science” programs may be taught to prepare individuals for a multiple role of homemaker and wage earner and may include such content areas as food and nutrition; consumer education; family living and parenthood; child development and guidance; family and individual health; housing and home management; and clothing and textiles.

2. “Home economics occupations programs” prepare individuals for paid employment in such home economics-related occupations as child care aide/assistant, food production management and services, and homemaker/home health aide.

(6) “Industrial education programs” encompass two categories of instructional programs—industrial technology and trade and industrial. Industrial technology means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impact of technology including its organizations, techniques, tools, and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy. Trade and industrial programs prepare individuals for employment in such areas as protective services, construction trades, mechanics and repairers, precision production, transportation, and graphic communications. Instruction includes regular systematic classroom activities, followed by experiential learning with the most important processes, tools, machines, management ideas, and impacts of technology.

(7) “Marketing education programs” prepare individuals for marketing occupations, including merchandising and management—those activities which make products and services readily available to consumers and business. Instruction stresses the concept that marketing is the bridge between production (including the creation of services and ideas) and consumption. These activities are performed by retailers, wholesalers, and businesses providing services in for-profit and not-for-profit business firms.

(8) “Sequential unit” applies to an integrated offering, directly related to the educational and occupational skills preparation of individuals for jobs and preparation for postsecondary education. Sequential units provide a logical framework for the instruction offered in a related occupational area and do not require prerequisites for enrollment. A unit is defined in subrule 12.5(18).

(9) “Competency” is a learned student performance statement which can be accurately repeated and measured. Instruction is based on incumbent worker-validated statements of learner results (competencies) which clearly describe what skills the students will be able to demonstrate as a result of the instruction. Competencies function as the basis for building the instructional program to be offered. Teacher evaluation of students, based upon their ability to perform the competencies, is an integral part of a competency-based system.

(10) “Minimum competency lists” contain competencies validated by statewide technical committees, composed of representatives from appropriate businesses, industries, agriculture, and organized labor. These lists contain essential competencies which lead to entry level employment and are not intended to be the only competencies learned. Districts will choose one set of competencies per service area upon which to build their program or follow the process detailed in 281—subrule 46.7(2) to develop local competencies.

(11) “Clinical experience” involves direct instructor supervision in the actual workplace, so that the learner has the opportunity to apply theory and to perfect skills taught in the classroom and laboratory.

“Field training” is an applied learning experience in a nonclassroom environment under the supervision of an instructor.

“Lab training” is experimentation, practice or simulation by students under the supervision of an instructor.

“On-the-job training” is a cooperative work experience planned and supervised by a teacher-coordinator and the supervisor in the employment setting.

(12) “Coring” is an instructional design whereby competencies common to two or more different vocational service areas are taught as one course offering. Courses shall be no longer than one unit of instruction. Course(s) may be placed wherever appropriate within the program offered. This offering may be acceptable as a unit or partial unit in more than one vocational program to meet the standard.

(13) “Articulation” is the process of mutually agreeing upon competencies and performance levels transferable between institutions and programs for advanced placement or credit in a vocational program. An articulation agreement is the written document which explains the decisions agreed upon and the process used by the institution to grant advanced placement or credit.

(14) “Multioccupational courses” combine on-the-job training in any of the occupational areas with the related classroom instruction. The instructor provides the related classroom instruction and coordinates the training with the employer at the work site. A multioccupational course may only be used to complete a sequence in more than one vocational service area if competencies from the appropriate set of minimum competencies are a part of the related instruction.

j. Vocational education/nonpublic schools (five units). A nonpublic school which provides an educational program that includes grades 9 through 12 shall offer and teach five units of occupational education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in business or office occupations, trade and industrial occupations, consumer and family sciences or home economics occupations, agricultural occupations, marketing occupations, and health occupations. By July 1, 1993, instruction shall be competency-based, articulated with postsecondary programs of study, and may include field, laboratory, or on-the-job training.

12.5(6) *Exemption from physical education course, health course, physical activity requirement, or cardiopulmonary resuscitation course completion.* A pupil shall not be required to enroll in a physical education course if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to enroll in a health course if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(19) regarding physical activity if the pupil’s parent or guardian files a written statement with the school principal that the requirement conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(20) regarding completion of a cardiopulmonary resuscitation course if the pupil’s parent or guardian files a written statement with the school principal that the completion of such a course conflicts with the pupil’s religious beliefs.

12.5(7) *Career education.* Each school or school district shall incorporate school-to-career educational programming into its comprehensive school improvement plan. Curricular and cocurricular teaching and learning experiences regarding career education shall be provided from the prekindergarten level through grade 12. Career education shall be incorporated into the total educational program and shall include, but is not limited to, awareness of self in relation to others and the needs of society; exploration of employment opportunities, at a minimum, within Iowa; experiences in personal decision making; experiences that help students connect work values into all aspects of their lives; and the development of employability skills. In the implementation of this subrule, the board shall comply with Iowa Code section 280.9.

12.5(8) *Multicultural and gender fair approaches to the educational program.* The board shall establish a policy to ensure that students are free from discriminatory practices in the educational program as required by Iowa Code section 256.11. In developing or revising the policy, parents, students, instructional and noninstructional staff, and community members shall be involved. Each school or school district shall incorporate multicultural and gender fair goals for the educational program into its comprehensive school improvement plan. Incorporation shall include the following:

a. Multicultural approaches to the educational program. These shall be defined as approaches which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of diverse cultural groups, including race, color, national origin, gender, disability, religion, creed, and socioeconomic background. The contributions and perspectives of Asian Americans, African Americans, Hispanic Americans, American Indians, European Americans, and persons with disabilities shall be included in the program.

b. Gender fair approaches to the educational program. These shall be defined as approaches which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of women and men to society. The program shall reflect the wide variety of roles open to both women and men and shall provide equal opportunity to both sexes.

12.5(9) *Special education.* The board of each school district shall provide special education programs and services for its resident children which comply with rules of the state board of education implementing Iowa Code chapters 256, 256B, 273, and 280.

12.5(10) *Technology integration.* Each school or school district shall incorporate into its comprehensive school improvement plan demonstrated use of technology to meet its student learning goals.

12.5(11) *Global education.* Each school or school district shall incorporate global education into its comprehensive school improvement plan as required by Iowa Code section 256.11. Global education shall be incorporated into all areas and levels of the educational program so students have the opportunity to acquire a realistic perspective on world issues, problems, and the relationship between an individual's self-interest and the concerns of people elsewhere in the world.

12.5(12) *Provisions for gifted and talented students.* Each school district shall incorporate gifted and talented programming into its comprehensive school improvement plan as required by Iowa Code section 257.43. The comprehensive school improvement plan shall include the following gifted and talented program provisions: valid and systematic procedures, including multiple selection criteria for identifying gifted and talented students from the total student population; goals and performance measures; a qualitatively differentiated program to meet the students' cognitive and affective needs; staffing provisions; an in-service design; a budget; and qualifications of personnel administering the program. Each school district shall review and evaluate its gifted and talented programming. This subrule does not apply to accredited nonpublic schools.

12.5(13) *Provisions for at-risk students.* Each school district shall include in its comprehensive school improvement plan the following provisions for meeting the needs of at-risk students: valid and systematic procedures and criteria to identify at-risk students throughout the school district's school-age population, determination of appropriate ongoing educational strategies for alternative options education programs as required in Iowa Code section 280.19A, and review and evaluation of the effectiveness of provisions for at-risk students. This subrule does not apply to accredited nonpublic schools.

Each school district using additional allowable growth for provisions for at-risk students shall incorporate educational program goals for at-risk students into its comprehensive school improvement plan. Provisions for at-risk students shall align with the student learning goals and content standards established by the school district or by school districts participating in a consortium. The comprehensive school improvement plan shall also include objectives, activities, cooperative arrangements with other service agencies and service groups, and strategies for parental involvement to meet the needs of at-risk children. The incorporation of these requirements into a school district's comprehensive school improvement plan shall serve as the annual application for additional allowable growth designated in Iowa Code section 257.38.

12.5(14) *Unit.* A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a foreign language may be taught at the same time by one teacher in a single classroom situation each yielding a unit of credit.

12.5(15) *Credit.* A student shall receive a credit or a partial credit upon successful completion of a course which meets one of the criteria in subrule 12.5(14). The board may award high school credit to a student who demonstrates required competencies for a course or content area in accordance with assessment methods approved by the local board.

12.5(16) *Subject offering.* A subject shall be regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and students have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject.

A subject shall be regarded as taught only when students are instructed in it in accordance with all applicable requirements outlined herein. Subjects which the law requires schools and school districts to offer and teach shall be made available during the school day as defined in subrules 12.1(8) to 12.1(10).

12.5(17) *Twenty-first century learning skills.* Twenty-first century learning skills include civic literacy, health literacy, technology literacy, financial literacy, and employability skills. Schools and school districts shall address the curricular needs of students in kindergarten through grade twelve in these areas. In doing so, schools and school districts shall apply to all curricular areas the universal constructs of critical thinking, complex communication, creativity, collaboration, flexibility and adaptability, and productivity and accountability.

a. Civic literacy. Components of civic literacy include rights and responsibilities of citizens; principles of democracy and republicanism; purpose and function of the three branches of government; local, state, and national government; inherent, expressed, and implied powers; strategies for effective political action; how law and public policy are established; how various political systems define rights and responsibilities of the individual; the role of the United States in current world affairs.

b. Health literacy. Components of health literacy include understanding and using basic health concepts to enhance personal, family and community health; establish and monitor health goals; effectively manage health risk situations and advocate for others; demonstrate a healthy lifestyle that benefits the individual and society.

c. Technology literacy. Components of technology literacy include creative thinking; development of innovative products and processes; support of personal learning and the learning of others; gathering, evaluating, and using information; use of appropriate tools and resources; conduct of research; project management; problem solving; informed decision making.

d. Financial literacy. Components of financial literacy include developing short- and long-term financial goals; understanding needs versus wants; spending plans and positive cash flow; informed and responsible decision making; repaying debt; risk management options; saving, investing, and asset building; understanding human, cultural, and societal issues; legal and ethical behavior.

e. Employability skills. Components of employability skills include different perspectives and cross-cultural understanding; adaptability and flexibility; ambiguity and change; leadership; integrity, ethical behavior, and social responsibility; initiative and self-direction; productivity and accountability.

12.5(18) *Early intervention program.* Each school district receiving early intervention program funds shall make provisions to meet the needs of kindergarten through grade 3 students. The intent of the early intervention program is to reduce class size, to achieve a higher level of student success in the basic skills, and to increase teacher-parent communication and accountability. Each school district shall develop a class size management strategy by September 15, 1999, to work toward, or to maintain, class sizes in basic skills instruction for kindergarten through grade 3 that are at the state goal of 17 students per teacher. Each school district shall incorporate into its comprehensive school improvement plan goals and activities for kindergarten through grade 3 students to achieve a higher level of success in the basic skills, especially reading. A school district shall, at a minimum, biannually inform parents of their individual child's performance on the results of diagnostic assessments in kindergarten through grade 3. If intervention is appropriate, the school district shall inform the parents of the actions the school district intends to take to improve the child's reading skills and provide the parents with strategies to enable the parents to improve their child's skills.

12.5(19) *Physical activity requirement.* Subject to the provisions of subrule 12.5(6), physically able pupils in kindergarten through grade 5 shall engage in physical activity for a minimum of 30 minutes each school day. Subject to the provisions of subrule 12.5(6), physically able pupils in grades 6 through 12 shall engage in physical activity for a minimum of 120 minutes per week in which there are at least five days of school.

a. This requirement may be met by pupils in grades 6 through 12 by participation in the following activities including, but not limited to:

- (1) Interscholastic athletics sponsored by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union;
- (2) School-sponsored marching band, show choir, dance, drill, cheer, or similar activities;

- (3) Nonschool gymnastics, dance, team sports, individual sports; or
- (4) Similar endeavors that involve movement, manipulation, or exertion of the body.

b. When the requirement is to be met in full or in part by a pupil using one or more nonschool activities, the school or school district shall enter into a written agreement with the pupil. The agreement shall state the nature of the activity and the starting and ending dates of the activity and shall provide sufficient information about the duration of time of the activity each week. The agreement shall also be signed by the school principal or principal's designee and by at least one parent or guardian of the pupil if the pupil is a minor. The pupil shall sign the agreement, regardless of the age of the pupil. The agreement shall be effective for no longer than one school year. There is no limit to the number of agreements that a school or school district may have with any one pupil during the enrollment of the pupil.

c. In no event may a school or school district reduce the regular instructional time, as defined by "unit" in subrule 12.5(14), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.

d. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

12.5(20) *Cardiopulmonary resuscitation course completion requirement.* Subject to the provisions of subrule 12.5(6), at any time prior to the end of twelfth grade, every pupil physically able to do so shall have completed a psychomotor course that leads to certification in cardiopulmonary resuscitation. A school or school district administrator may waive this requirement for any pupil who is not physically able to complete the course. A course that leads to certification in CPR may be taught during the school day by either a school or school district employee or by a volunteer, as long as the person is certified to teach a course that leads to certification in CPR. In addition, a school or school district shall accept certification from any nationally recognized course in cardiopulmonary resuscitation as evidence that this requirement has been met by a pupil. A school or school district shall not accept auditing of a CPR course, nor a course in infant CPR only. This subrule is effective for the graduating class of 2011-2012. [ARC 7783B, IAB 5/20/09, effective 6/24/09; ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); ARC 0525C, IAB 12/12/12, effective 1/16/13; ARC 1116C, IAB 10/16/13, effective 11/20/13; ARC 1663C, IAB 10/15/14, effective 11/19/14]

DIVISION VI ACTIVITY PROGRAM

281—12.6(256) Activity program. The following standards shall apply to the activity program of accredited schools and school districts.

12.6(1) *General guidelines.* Each board shall sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) *Supervised intramural sports.* If the board sponsors a voluntary program of supervised intramural sports for pupils in grades seven through twelve, qualified personnel and adequate facilities, equipment, and supplies shall be provided. Middle school grades below grade seven may also participate.

DIVISION VII STAFF DEVELOPMENT

281—12.7(256,284,284A) Professional development. The following standards shall apply to staff development for accredited schools and school districts.

12.7(1) Provisions for school district professional development.

a. Provisions for district professional development plans. Each school district shall incorporate into its comprehensive school improvement plan provisions for the professional development of all staff, including the district professional development plan required in 281—paragraph 83.6(2)“a.” To meet the professional needs of all staff, professional development activities shall align with district goals; shall be based on student and staff information; shall prepare all employees to work effectively with diverse learners and to implement multicultural, gender fair approaches to the educational program; and shall adhere to the professional development standards in 281—paragraph 83.6(2)“b” to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Provisions for attendance center professional development plans. Each school district shall ensure that every attendance center has an attendance center professional development plan that addresses, at a minimum, the needs of the teachers in that center; the Iowa teaching standards; the district professional development plan; and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

c. Provisions for individual teacher professional development plans. Each school district shall ensure that every teacher as defined in rule 281—83.2(284,284A) has an individual teacher professional development plan that meets the expectations in 281—subrule 83.6(1).

d. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(1)“a.”

12.7(2) Provisions for accredited nonpublic school professional development.

a. Each accredited nonpublic school shall incorporate into its comprehensive school improvement plan provisions for the professional development of staff. To meet the professional needs of instructional staff, professional development activities shall align with school achievement goals and shall be based on student achievement needs and staff professional development needs. The plan shall deliver research-based instructional practices to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(2)“a.”

DIVISION VIII
ACCOUNTABILITY

281—12.8(256) Accountability for student achievement. Schools and school districts shall meet the following accountability requirements for increased student achievement. Area education agencies shall provide technical assistance as required by 281—subrule 72.4(7).

12.8(1) Comprehensive school improvement. The general accreditation standards are minimum, uniform requirements. However, the department encourages schools and school districts to go beyond the minimum with their work toward ongoing improvement. As a means to this end, local comprehensive school improvement plans shall be specific to a school or school district and designed, at a minimum, to increase the learning, achievement, and performance of all students.

As a part of ongoing improvement in its educational system, the board shall adopt a written comprehensive school improvement plan designed for continuous school, parental, and community involvement in the development and monitoring of a plan that is aligned with school or school district determined needs. The plan shall incorporate, to the extent possible, the consolidation of federal and state planning, goal setting, and reporting requirements. The plan shall contain, but is not limited to, the following components:

a. Community involvement.

(1) Local community. The school or school district shall involve the local community in decision-making processes as appropriate. The school or school district shall seek input from the local community about, but not limited to, the following elements at least once every five years:

1. Statement of philosophy, beliefs, mission, or vision;

2. Major educational needs; and
3. Student learning goals.

(2) School improvement advisory committee. To meet requirements of Iowa Code section 280.12(2) as amended by 2007 Iowa Acts, Senate File 61, section 1, the board shall appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members' analysis of the needs assessment data, the committee shall make recommendations to the board about the following components:

1. Major educational needs;
2. Student learning goals;
3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; and
4. Harassment or bullying prevention goals, programs, training, and other initiatives.

(3) At least annually, the school improvement advisory committee shall also make recommendations to the board with regard to, but not limited to, the following:

1. Progress achieved with the annual improvement goals for the state indicators that address reading, mathematics, and science in subrule 12.8(3);
2. Progress achieved with other locally determined core indicators; and
3. Annual improvement goals for the state indicators that address reading, mathematics, and science achievement.

b. Data collection, analysis, and goal setting.

(1) Policy. The board shall adopt a policy for conducting ongoing and long-range needs assessment processes. This policy shall ensure involvement of and communication with the local community regarding its expectations for adequate preparation for all students as responsible citizens and successful wage earners. The policy shall include provisions for keeping the local community regularly informed of progress on state indicators as described in subrule 12.8(3), other locally determined indicators within the comprehensive school improvement plan as required by Iowa Code section 280.12, and the methods a school district will use to inform kindergarten through grade 3 parents of their individual child's performance biannually as described in 1999 Iowa Acts, House File 743. The policy shall describe how the school or school district shall provide opportunities for local community feedback on an ongoing basis.

(2) Long-range data collection and analysis. The long-range needs assessment process shall include provisions for collecting, analyzing, and reporting information derived from local, state, and national sources. The process shall include provisions for reviewing information acquired over time on the following:

1. State indicators and other locally determined indicators;
2. Locally established student learning goals; and
3. Specific data collection required by federal and state programs.

Schools and school districts shall also collect information about additional factors influencing student achievement which may include, but are not limited to, demographics, attitudes, health, and other risk factors.

(3) Long-range goals. The board, with input from its school improvement advisory committee, shall adopt long-range goals to improve student achievement in at least the areas of reading, mathematics, and science.

(4) Annual data collection and analysis. The ongoing needs assessment process shall include provisions for collecting and analyzing annual assessment data on the state indicators, other locally determined indicators, and locally established student learning goals.

(5) Annual improvement goals. The board, with input from its school improvement advisory committee, shall adopt annual improvement goals based on data from at least one districtwide assessment. The goals shall describe desired annual increase in the curriculum areas of, but not limited to, mathematics, reading, and science achievement for all students, for particular subgroups of students, or both. Annual improvement goals may be set for the early intervention program as described in subrule

12.5(18), other state indicators, locally determined indicators, locally established student learning goals, other curriculum areas, future student employability, or factors influencing student achievement.

c. Content standards and benchmarks.

(1) Policy. The board shall adopt a policy outlining its procedures for developing, implementing, and evaluating its total curriculum. The policy shall describe a process for establishing content standards, benchmarks, performance levels, and annual improvement goals aligned with needs assessment information.

(2) Content standards and benchmarks. The board shall adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. Included in the local standards and benchmarks shall be the core content standards from Iowa's approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act. Standards and benchmarks may be adopted for other curriculum areas defined in 281—Chapter 12, Division V. The comprehensive school improvement plan submitted to the department shall contain, at a minimum, the core content standards for reading, mathematics, and science. The educational program as defined in 281—Chapter 12, Division II, shall incorporate career education, multicultural and gender fair education, technology integration, global education, higher-order thinking skills, learning skills, and communication skills as outlined in subrules 12.5(7), 12.5(8), 12.5(10), and 12.5(11), and subparagraph 12.8(1) "c"(1).

d. Determination and implementation of actions to meet the needs. The comprehensive school improvement plan shall include actions the school or school district shall take districtwide in order to accomplish its long-range and annual improvement goals as required in Iowa Code section 280.12(1) "b."

(1) Actions shall include, but are not limited to, addressing the improvement of curricular and instructional practices to attain the long-range goals, annual improvement goals, and the early intervention goals as described in subrule 12.5(18).

(2) A school or school district shall document consolidation of state and federal resources and requirements, as appropriate, to implement the actions in its comprehensive school improvement plan. State and federal resources shall be used, as applicable, to support implementation of the plan.

(3) A school or school district may have building-level action plans, aligned with its comprehensive school improvement plan. These may be included in the comprehensive school improvement plan or kept on file at the local level.

e. Evaluation of the comprehensive school improvement plan. A school or school district shall develop strategies to collect data and information to determine if the plan has accomplished the goals for which it was established.

f. Assessment of student progress. Each school or school district shall include in its comprehensive school improvement plan provisions for districtwide assessment of student progress for all students. The plan shall identify valid and reliable student assessments aligned with local content standards, which include the core content standards referenced in subparagraph 12.8(1) "c"(2). These assessments are not limited to commercially developed measures. School districts receiving early intervention funding described in subrule 12.5(18) shall provide for diagnostic reading assessments for kindergarten through grade 3 students.

(1) State indicators. Using at least one districtwide assessment, a school or school district shall assess student progress on the state indicators in, but not limited to, reading, mathematics, and science as specified in subrule 12.8(3). At least one districtwide assessment shall allow for, but not be limited to, the comparison of the school or school district's students with students from across the state and in the nation in reading, mathematics, and science. A school or school district shall use additional assessments to measure progress on locally determined content standards in at least reading, mathematics, and science.

(2) Performance levels. A school or school district shall establish at least three performance levels on at least one districtwide valid and reliable assessment in the areas of reading and mathematics for at least grades 4, 8, and 11 and science in grades 8 and 11 or use the achievement levels as established by the Iowa Testing Program to meet the intent of this subparagraph (2).

g. Assurances and support. A school or school district shall provide evidence that its board has approved and supports the five-year comprehensive school improvement plan and any future revisions of that plan. This assurance includes the commitment for ongoing improvement of the educational system.

h. Designation of “at least one districtwide assessment.”

(1) For purposes of Iowa Code section 256.7, at least one of the districtwide assessments used to measure student progress in core academic indicators in reading and math shall be the assessment developed by the Smarter Balanced Assessment Consortium (SBAC).

(2) The department shall select a vendor to administer the SBAC assessment through a request-for-proposal process.

(3) The assessment task force shall review SBAC administration and make a recommendation pursuant to Iowa Code section 256.7(21)“b”(3) on or before June 30, 2020.

12.8(2) Submission of a comprehensive school improvement plan. A school or school district shall submit to the department and respective area education agency a multiyear comprehensive school improvement plan on or before September 15, 2000. Beginning July 1, 2001, a school or school district shall submit a revised five-year comprehensive school improvement plan by September 15 of the school year following the comprehensive site visit specified in Iowa Code section 256.11 which incorporates, when appropriate, areas of improvement noted by the school improvement visitation team as described in subrule 12.8(4). A school or school district may, at any time, file a revised comprehensive school improvement plan with the department and respective area education agency.

12.8(3) Annual reporting requirements. A school or school district shall, at minimum, report annually to its local community about the progress on the state indicators and other locally determined indicators.

a. State indicators. A school or school district shall collect data on the following indicators for reporting purposes:

(1) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher reading status using at least three achievement levels and by gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(2) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher mathematics status using at least three achievement levels and for gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(3) The percentage of all eighth and eleventh grade students achieving proficient or higher science status using at least three achievement levels.

(4) The percentage of students considered as dropouts for grades 7 to 12 by gender, race, students with disabilities, and other subgroups as required by state or federal law.

(5) The percentage of high school seniors who intend to pursue postsecondary education/training.

(6) The percentage of high school students achieving a score or status on a measure indicating probable postsecondary success. This measure should be the measure used by the majority of students in the school, school district, or attendance center who plan to attend a postsecondary institution.

(7) The percentage of high school graduates who complete a core program of four years of English-language arts and three or more years each of mathematics, science, and social studies.

b. Annual progress report. Each school or school district shall submit an annual progress report to its local community, its respective area education agency, and the department. That report shall be submitted to the department by September 15, 2000, and by September 15 every year thereafter. The report shall include, but not be limited to, the following information:

(1) Baseline data on at least one districtwide assessment for the state indicators described in subrule 12.8(3). Every year thereafter the school or school district shall compare the annual data collected with the baseline data. A school or school district is not required to report to the community about subgroup assessment results when a subgroup contains fewer than ten students at a grade level. A school or school district shall report districtwide assessment results for all enrolled and tuitioned-in students.

(2) Locally determined performance levels for at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. Student achievement levels as defined by the Iowa Testing Program may be used to fulfill this requirement.

(3) Long-range goals to improve student achievement in the areas of, but not limited to, reading, mathematics, and science.

(4) Annual improvement goals based on at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. One annual improvement goal may address all areas, or individual annual improvement goals for each area may be identified. When a school or school district does not meet its annual improvement goals for one year, it shall include in its annual progress report the actions it will take to meet annual improvement goals for the next school year.

(5) Data on multiple assessments for reporting achievement for all students in the areas of reading and mathematics by September 15, 2001, and for science by September 15, 2003.

(6) Results by individual attendance centers, as appropriate, on the state indicators as stated in subrule 12.8(3) and any other locally determined factors or indicators. An attendance center, for reporting purposes, is a building that houses students in grade 4 or grade 8 or grade 11.

(7) Progress with the use of technology as required by Iowa Code section 295.3. This requirement does not apply to accredited nonpublic schools.

(8) School districts are encouraged to provide information on the reading proficiency of kindergarten through grade 3 students by grade level. However, all school districts receiving early intervention block grant funds shall report to the department the progress toward achieving their early intervention goals.

(9) Other reports of progress as the director of the department requires and other reporting requirements as the result of federal and state program consolidation.

12.8(4) *Comprehensive school improvement and the accreditation process.* All schools and school districts having accreditation on August 18, 1999, are presumed accredited unless or until the state board takes formal action to remove accreditation. The department shall use a Phase I and a Phase II process for the continued accreditation of schools and school districts as defined in Iowa Code section 256.11(10).

a. Phase I. The Phase I process includes ongoing monitoring by the department of each school and school district to determine if it is meeting the goals of its comprehensive school improvement plan and meeting the accreditation standards. Phase I contains the following two components:

(1) Annual comprehensive desk audit. This audit consists of a review by the department of a school or school district's annual progress report. The department shall review the report as required by subrule 12.8(3) and provide feedback regarding the report. The audit shall also include a review by the department of other annual documentation submitted by a school or school district as required for compliance with the educational standards in Iowa Code section 256.11 and other reports required by the director.

When the department determines a school or school district has areas of noncompliance, the department shall consult with the school or school district to determine what appropriate actions shall be taken by the school or school district. The department shall facilitate technical assistance when requested. When the department determines that a school or school district has not met compliance with one or more accreditation standards within a reasonable amount of time, the school or school district shall submit an action plan that is approved by the department. The action plan shall contain reasonable timelines for coming into compliance. If the department determines that the school or school district is not taking the necessary actions, the director of the department may place the school or school district in a Phase II accreditation process.

If a school or school district does not meet its stated annual improvement goals for at least two consecutive years in the areas of mathematics and reading and is not taking corrective steps, the department shall consult with the school or school district and determine whether a self-study shall be required. The department shall facilitate technical assistance when needed. The self-study shall include, but is not limited to, the following:

1. A review of the comprehensive school improvement plan.
2. A review of each attendance center's student achievement data.
3. Identification of factors that influenced the lack of goal attainment.
4. Submission of new annual improvement goals, if necessary.
5. Submission, if necessary, of a revised comprehensive school improvement plan.

Upon completion of a department-required self-study, the department shall collaborate with the school or school district to determine whether one or more attendance centers are to be identified as in need of improvement. For those attendance centers identified as being in need of improvement, the department shall facilitate technical assistance.

When a school or school district has completed a required self-study and has not met its annual improvement goals for at least two or more consecutive years, the department may conduct a site visit. When a site visit occurs, the department shall determine if appropriate actions were taken. If the site visit findings indicate that appropriate actions were taken, accreditation status shall remain.

(2) Comprehensive site visit. A comprehensive site visit shall occur at least once every five years as required by Iowa Code section 256.11(10) or before, if requested by the school or school district. The purpose of a comprehensive site visit is to assess progress with the comprehensive school improvement plan, to provide a general assessment of educational practices, to make recommendations with regard to the visit findings for the purposes of improving educational practices above the level of minimum compliance, and to determine that a school or school district is in compliance with the accreditation standards. The department and the school district or school may coordinate the accreditation with activities of other accreditation associations. The comprehensive site visit shall include the following components:

1. School improvement site visit team. The department shall determine the size and composition of the school improvement site visit team. The team shall include members of the department staff and may include other members such as, but not limited to, area education agency staff, postsecondary staff, and other school district or school staff.

2. Previsit actions. The school improvement team shall review the five-year comprehensive school improvement plan, annual progress reports, and any other information requested by the department.

3. The site visit report. Upon review of documentation and site visit findings, the department shall provide a written report to the school or school district based on the comprehensive school improvement plan and other general accreditation standards. The report shall state areas of strength, areas in need of improvement, and areas, if any, of noncompliance. For areas of noncompliance, the school or school district shall submit, within a reasonable time frame, an action plan to the department. The department shall determine if the school or school district is implementing the necessary actions to address areas of noncompliance. If the department determines that the school or school district is not taking the necessary actions, the director of the department may place the school or school district in a Phase II accreditation process.

b. Conditions under which a Phase II visit may occur. A Phase II accreditation process shall occur if one or more of the following conditions exist:

- (1) When either the annual monitoring or the comprehensive site visit indicates that a school or school district is deficient and fails to be in compliance with accreditation standards;

- (2) In response to a petition filed with the director of the department requesting such a committee visitation that is signed by 20 percent or more of the registered voters of a school district;

- (3) In response to a petition filed with the director of the department requesting such a committee visitation that is signed by 20 percent or more of the families having enrolled students in a school or school district;

- (4) At the direction of the state board of education; or

- (5) Upon recommendation of the school budget review committee for a district that exceeds its authorized budget or carries a negative unspent balance for at least two consecutive years.

c. The Phase II process. The Phase II process shall consist of monitoring by the department. This monitoring shall include the appointment of an accreditation committee to complete a comprehensive review of the school or school district documentation on file with the department. The accreditation committee shall complete one or more site visits. The Phase II process shall include the following components:

- (1) Accreditation committee. The director of the department shall determine accreditation committee membership. The chairperson and majority of the committee shall be department staff. The committee may also include at least one representative from another school or school district,

AEA staff, postsecondary education staff, board members, or community members. No member of an accreditation committee shall have a direct interest, as determined by the department, in the school or school district involved in the Phase II process. The accreditation committee shall have access to all documentation obtained from the Phase I process.

(2) Site visit. The accreditation committee shall conduct one or more site visits to determine progress made on noncompliance issues.

(3) Accreditation committee actions. The accreditation committee shall make a recommendation to the director of the department regarding accreditation status of the school or school district. This recommendation shall be contained in a report to the school or school district that includes areas of strength, areas in need of improvement, and, if any, the areas still not in compliance. The committee shall provide advice on available resources and technical assistance for meeting the accreditation standards. The school or school district may respond in writing to the director if it does not agree with the findings in the Phase II accreditation committee report.

(4) State board of education actions. The director of the department shall provide a report and a recommendation to the state board as a result of the Phase II accreditation committee visit and findings. The state board shall determine accreditation status. When the state board determines that a school or school district shall not remain accredited, the director of the department shall collaborate with the school or school district board to establish an action plan that includes deadlines by which areas of noncompliance shall be corrected. The action plan is subject to approval by the state board.

(5) Accreditation status. During the period of time the school or school district is implementing the action plan approved by the state board, the school or school district shall remain accredited. The accreditation committee may revisit the school or school district and determine whether the areas of noncompliance have been corrected. The accreditation committee shall report and recommend one of the following actions:

1. The school or school district shall remain accredited.
2. The school or school district shall remain accredited under certain specified conditions.
3. The school or school district shall have its accreditation removed as outlined in Iowa Code section 256.11(12).

The state board shall review the report and recommendation, may request additional information, and shall determine the accreditation status and further actions required by the school or school district as outlined in Iowa Code section 256.11(12).

[ARC 2312C, IAB 12/9/15, effective 1/13/16]

DIVISION IX EXEMPTION REQUEST PROCESS

281—12.9(256) General accreditation standards exemption request. A school or school district may seek department approval for an exemption as stated in Iowa Code sections 256.9(43) and 256.11(8). The school or school district shall submit the exemption request to the director of the department with, at a minimum, the following: (1) the written request and (2) the standard exemption plan as described in subrule 12.9(1). For the 1999-2000 school year, the written request and plan shall be submitted before October 1, 1999. For subsequent school years, the written request and plan shall be submitted on or before January 1 preceding the beginning of the school year for which the exemption is sought. The exemption request may be approved for a time period not to exceed five years. The department may approve, on request of the school or school district, an extension of the exemption beyond the initial five-year period. The department shall notify the school or school district of the approval or denial of its exemption request not later than March 1 of the school year in which the request was submitted.

12.9(1) General accreditation standards exemption plan. The plan shall contain, but is not limited to, the following components:

- a. The standard or standards for which the exemption is requested.
- b. A rationale for each general accreditation standard identified in paragraph “a.” The rationale shall describe how the approval of the request will assist the school or school district to improve student achievement or performance as described in its comprehensive school improvement plan.

- c. The sources of supportive research evidence and information, when appropriate, that were analyzed and used to form the basis of each submitted rationale.
- d. How the school or school district staff collaborated with the local community or with the school improvement advisory committee about the need for the exemption request.
- e. Evidence that the board approved the exemption request.
- f. A list of the indicators that will be measured to determine success.
- g. How the school or school district will measure the success of the standards exemption plan on improving student achievement or performance.

In its annual progress report as described in paragraph 12.8(3) “b,” the school or school district that receives an exemption approval shall include data to support increased student learning, achievement, or performance that has resulted from the approved standards exemption.

12.9(2) *General accreditation standards exemption request and exemption plan review criteria.* The department shall use the information provided in the written request and exemption plan as described in subrule 12.9(1) to determine approval or denial of requests for exemptions from the general accreditation standards. The department will use the following criteria for approval or denial of an exemption plan:

- a. Components “a” through “g” listed in subrule 12.9(1) are addressed.
- b. Clarity, thoroughness, and reasonableness are evident, as determined by the department, for each component of the accreditation standards exemption plan.

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

281—12.10(256) Independent accrediting agencies. Notwithstanding subsections 1 through 12 of Iowa Code section 256.11 and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) *Compliance required by a nonpublic school.* A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule shall be deemed to meet the education standards of Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) *Compliance required by accrediting agency.* Agencies approved under subrule 12.10(3) shall abide by all state and federal laws and regulations and shall enforce those laws and regulations on the schools they accredit. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(3) *List maintained by state board.* The state board shall maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department’s Internet site. The list shall include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this rule and shall include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013. Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), AdvancEd, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).

12.10(4) *Criteria for recognizing an agency as a “reliable authority concerning the quality of education offered by a school.”* In any decision to add an agency to the list maintained pursuant to

subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(3), the following criteria may be applied:

- a. Whether the agency's accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.
- b. Whether the agency's accreditation standards require a school to monitor and assess all students' progress toward high academic and nonacademic standards.
- c. Whether the agency's accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.
- d. Whether the agency's accreditation standards set requirements for fiscal, data, and contract management.
- e. Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.
- f. Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.
- g. Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).
- h. Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).
- i. Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.
- j. Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.
- k. Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.
- l. Any other criterion used by the agency to determine accreditation.
- m. Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89.

12.10(5) *Removal of agency from approved independent accrediting agencies.* If the state board takes preliminary action to remove an agency from the approved list published on the department's Internet site pursuant to subrule 12.10(1), the department shall, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board's intent to remove the accrediting agency from its approved list of independent accrediting agencies. The department shall give notice to the independent accrediting agency, along with an opportunity to respond. The notice shall also be posted on the department's Internet site and shall contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school shall attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(6) *Rule of construction: "at least six."* The obligation to maintain a list of at least six agencies in subrule 12.10(1) shall not be construed to require the list to contain an agency that is not a regional or national nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(7) *Adoption by the department of standard procedures.* The department shall adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(3).

12.10(8) Automatic repeal. Pursuant to the repeal clause in 2013 Iowa Acts, House File 215, section 89, this rule is rescinded July 1, 2020.

[ARC 1118C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement Iowa Code sections 256.11, 280.23, and 256.7(21).

[Filed 3/4/88, Notice 7/15/87—published 3/23/88, effective 4/27/88]¹

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 10/13/89, Notice 7/26/89—published 11/1/89, effective 12/6/89]

[Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]

[Filed 1/15/93, Notice 9/16/92—published 2/3/93, effective 3/10/93]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]

[Filed 10/24/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]

[Filed 6/25/99, Notice 4/7/99—published 7/14/99, effective 8/18/99]

[Filed 1/16/01, Notice 10/4/00—published 2/7/01, effective 3/14/01]

[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]

[Filed 11/16/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]

[Filed 5/10/07, Notice 3/28/07—published 6/6/07, effective 7/11/07]

[Filed 11/14/07, Notice 8/15/07—published 12/5/07, effective 1/9/08][◇]

[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]

[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]

[Filed 4/3/08, Notice 10/10/07—published 4/23/08, effective 5/28/08]

[Filed ARC 7783B (Notice ARC 7504B, IAB 1/14/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 0016C (Notice ARC 9909B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12]²

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0525C (Notice ARC 0297C, IAB 8/22/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1115C (Notice ARC 0954C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1116C (Notice ARC 0958C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1118C (Notice ARC 0964C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1663C (Notice ARC 1527C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]

[Filed ARC 2312C (Notice ARC 2185C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

[◇] Two or more ARCs

¹ Effective date of Chapter 4 delayed 70 days by Administrative Rules Review Committee at its meeting held April 20, 1988.

² March 28, 2012, effective date of 12.3(3), 12.4(6), 12.4(14), 12.5(4) "I," and 12.5(17) delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 13
INTER-DISTRICT SHARING
Reserved

CHAPTER 14
SCHOOL HEALTH SERVICES

281—14.1 and 14.2 Reserved.

281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector voluntary supply.

14.3(1) Definitions. For the purpose of this rule, the following definitions apply:

“Act” means 2015 Iowa Acts, Senate File 462, which amends Iowa Code section 280.16 and creates Iowa Code section 280.16A.

“Department” means the department of education.

“Epinephrine auto-injector” means a disposable drug delivery device that has a spring-activated concealed needle and is designed for immediate self-administration or administration by another trained individual of a measured dose of epinephrine to a student or individual at risk of anaphylaxis.

“Licensed health care professional” means a person who has prescriptive authority and is licensed under Iowa Code chapter 148 to practice medicine and surgery, an advanced nurse practitioner licensed pursuant to Iowa Code chapter 152, or a physician assistant licensed to practice under the supervision of a physician as authorized in Iowa Code chapters 147 and 148C.

“Medication administration course” means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

“Medication error” means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector according to generally accepted standards of practice.

“Medication incident” means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

“Personnel authorized to administer epinephrine” means a school employee who has successfully completed the medication administration course requirements and who completes an annual anaphylaxis training program approved by the department and conducted by the school nurse, including a return-skills demonstration on the use of an epinephrine auto-injector.

“School building” means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

“School nurse” means a registered nurse holding current licensure recognized by the Iowa board of nursing who practices in the school setting to promote and protect the health of the school population by using knowledge from the nursing, social, and public health sciences.

14.3(2) Applicability. This rule applies to and permits:

a. A licensed health care professional to prescribe a stock epinephrine auto-injector in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule,

b. A pharmacist to dispense epinephrine auto-injectors pursuant to a prescription issued in the name of a school district or accredited nonpublic school, and

c. A school district or accredited nonpublic school to acquire and maintain a stock supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with the Act.

14.3(3) Prescription for stock epinephrine auto-injector. A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction. The school district or accredited nonpublic school shall maintain the supply of such auto-injectors in a secure, dark, temperature-controlled location in each school building. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules, the school district or accredited nonpublic school shall stock a minimum of one pediatric dose and one adult dose epinephrine auto-injector for each school building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

14.3(4) *Authorized personnel and stock epinephrine auto-injector administration.* A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector from a school supply to a student or individual if the authorized personnel or school nurse reasonably and in good faith believes the student or individual is having an anaphylactic reaction.

a. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, failure to administer, or assistance in the administration of an epinephrine auto-injector:

- (1) Authorized personnel and the school nurse,
- (2) The school district or accredited nonpublic school employing the personnel or school nurse,
- (3) The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school, and
- (4) The prescriber of the epinephrine auto-injector.

b. Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

c. Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive.

d. The administration of an epinephrine auto-injector in accordance with this chapter is not the practice of medicine.

14.3(5) *Stock epinephrine auto-injector training.* School employees may obtain a signed certificate to become authorized personnel.

a. Training to obtain a signed certificate may be accomplished by:

- (1) Successfully completing, every five years, the medication administration course provided by the department;
- (2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;
- (3) Annually completing an anaphylaxis training program approved by the department;
- (4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector using information from the training, authorized prescriber instructions regarding the administration of the stock epinephrine auto-injector, and as directed by the prescription epinephrine auto-injector's manufacturing label; and
- (5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

b. Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident with the administration of stock epinephrine auto-injectors shall be required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors.

14.3(6) *Procurement and maintenance of stock epinephrine auto-injector supply.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors.

a. Stock epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, that is dark and maintained at room temperature (between 59 to 86 degrees) or in accordance with the manufacturing label of the stock epinephrine auto-injector.

b. A school district or school will designate an employee to routinely check stock epinephrine auto-injectors and document in a log monthly throughout the calendar year for:

- (1) The expiration date;
- (2) Any visualized particles; or
- (3) Color change.

c. The school district or school shall develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector that is used, close to expiration, or discolored or has particles visible in the liquid.

14.3(7) *Disposal of used stock epinephrine auto-injectors.* The school district or school that administers epinephrine auto-injectors shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance.

14.3(8) *Reporting.* A school district or school that obtains a prescription for stock epinephrine auto-injectors shall report each medication incident with the administration of stock epinephrine, medication error with the administration of stock epinephrine, or the administration of a stock epinephrine auto-injector to the department within 48 hours, using the reporting format approved by the department.

14.3(9) *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors shall establish a policy and procedure for the administration of a stock epinephrine auto-injector, which shall comply with the minimum requirements of this rule.

14.3(10) *Rule of construction.* This rule shall not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors. An election not to maintain such a stock shall not be considered to be negligence.

[ARC 2311C, IAB 12/9/15, effective 1/13/16]

281—14.4(256,280) Severability. If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect, and to this end the provisions of these rules are declared to be severable.

[ARC 2311C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement 2015 Iowa Acts, Senate File 462.

[Filed ARC 2311C (Notice ARC 2183C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 15
USE OF ONLINE LEARNING AND TELECOMMUNICATIONS
FOR INSTRUCTION BY SCHOOLS

281—15.1(256) Purpose. It is the purpose of this chapter to give guidance and direction for the use of online learning or the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade 12. It is a further purpose of this chapter to provide guidance for students and school districts regarding enrollment of students in one or more courses offered by Iowa Learning Online.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.2(256) Definitions.

“Appropriately licensed and endorsed” means possession of current and valid licensure by the Iowa board of educational examiners to practice at a prescribed educational level in a specified content area.

“Class size” refers to the total group taught during a time period by a teacher or teaching team with students at one or more sites.

“Delivered primarily over the Internet” means more than 50 percent of the course content or instruction or both is delivered using the global computer network of the World Wide Web or Internet.

“Department” means the department of education.

“Exclusive instruction” means without the use of any other form of instructional delivery.

“Iowa Learning Online” or *“ILO”* means the department’s digital learning initiative to provide online courses to students enrolled or dually enrolled in participating school districts and accredited nonpublic schools. ILO is more specifically explained in Division III herein.

“Online learning” or *“online coursework”* means educational instruction and content delivered primarily over the Internet. *“Online learning”* or *“online coursework”* does not include print-based correspondence curricula, broadcast television or radio, videocassettes, or stand-alone educational software programs that lack a significant Internet-based instructional component.

“Participating school district or accredited nonpublic school” means a school district or accredited nonpublic school that has registered a student in an ILO course and has agreed to provide the student with access, during the school day, to a computer that has Internet connectivity through a direct connection as well as access to a telephone or an ICN classroom and transportation to periodic laboratory components, if needed or required. The district has also agreed to provide a staff member to serve as a site coordinator and contact for the ILO teacher, to monitor progress, and to serve as the student’s advocate by providing academic coaching and technical support. Further, the district has agreed to award a grade and credit on the student’s district-level transcript, based on the end-of-course evaluation by the ILO teacher.

“Telecommunications” means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. *“Telecommunications”* does not include online learning.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

DIVISION I
USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

281—15.3(256) Interactivity. Courses delivered primarily via telecommunications shall employ live interactive systems which allow, at a minimum, one-way video and two-way audio communication. An annual waiver may be granted by the department for a telecommunications system that does not include audio but has alternative contemporaneous, interactive communication ability and is consistent with sound instructional practice.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.4(256) Course eligibility. Telecommunications may be employed as a means to deliver any course, including a course required for accreditation by the department, provided it is not the exclusive means of instructional delivery.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.5(256) Teacher preparation and accessibility. A teacher appropriately licensed and endorsed for the educational level and content area being taught shall be present and responsible for the instructional program at the receiving site if a presenter of material transmitted via telecommunications is not an appropriately licensed and endorsed teacher for the educational level and content area. If a presenter of material transmitted via telecommunications is an appropriately licensed and endorsed teacher for the educational level and content area, a supervising teacher, or aide to whom a supervising teacher is readily available for consultation, shall supervise and monitor the curriculum and students and be readily accessible to the students. Prior to being assigned initially to deliver instruction via telecommunications, a teacher shall receive training regarding effective practices which enhance learning by telecommunications.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.6(256) School responsibilities. Each board of a school district or an accredited nonpublic school employing telecommunications for instruction shall develop policies relative to the use of telecommunications in the delivery of the educational program that are consistent with effective clinical practice. The school district or accredited nonpublic school shall report its use of telecommunications for instruction annually to the department on forms provided by the department. This report shall include:

1. To whom the instruction was delivered including class size, type of class (such as seminar or lecture), and grade level;
2. The course description and schedule of instruction;
3. The number, assignment, licensure including the licensing folder number, and the training received regarding effective practices which enhance learning by telecommunications of all staff involved in the teaching/learning process at both the origination and the receiving sites; and
4. The type of telecommunications used for course delivery, e.g., Internet, ICN, Polycom, etc.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

DIVISION II ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

281—15.7(256) School district responsibilities. Subject to the prohibition in rule 281—15.8(256), any online coursework offered by a school district shall be offered solely to resident students of the school district, or students attending the school district through a sharing agreement with another school district, and shall be taught by a teacher appropriately licensed and endorsed for the educational level and content area being taught. The teacher may be employed directly by the school district or by a third-party provider of the online curricula used by the school district. Teachers employed by the school district shall be subject to the provisions of Iowa Code chapters 272, 279, and 284. Teachers employed by a third-party provider shall be subject to the provisions of Iowa Code chapter 272; these teachers must be given access to appropriate professional development by the school district, but otherwise are not subject to the provisions of Iowa Code chapters 279 and 284.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.8(256) Prohibition regarding open enrollment. Open enrollment of students to a school district that offers online coursework is limited to open enrollment to the receiving school districts of Cumberland-Anita-Massena (CAM) and Clayton Ridge, pursuant to Iowa Code section 256.7(32) “c” as amended by 2015 Iowa Acts, Senate File 510, section 99. In implementing any numerical limitation required by Iowa Code section 256.7(32) “c” as amended by 2015 Iowa Acts, Senate File 510, section 99, priority shall be given to students who are documented victims of bullying and harassment, as defined in Iowa Code section 280.28.

[ARC 0522C, IAB 12/12/12, effective 1/16/13; ARC 2313C, IAB 12/9/15, effective 1/13/16]

281—15.9(256) Special education services. Children with disabilities may not be categorically excluded from admission to online learning programs or from enrollment in online coursework.

15.9(1) Whether an online course or online learning is appropriate to a child with a disability must be determined by the child's needs, not by the child's weightedness. If a child's individualized education program (IEP) goals cannot be met in online learning, with or without supplementary aids and services or modifications, online learning is not appropriate to the child.

15.9(2) If a child's IEP team determines that online learning is inappropriate to the child, the child's parents are entitled to prior written notice pursuant to rule 281—41.503(256B,34CFR300) and to have available to them the procedural safeguards provided under rule 281—41.504(256B,34CFR300).

15.9(3) When a child with an IEP seeks enrollment into an online learning program by means of open enrollment, the child's IEP team shall determine that the child meets the open enrollment requirements under 281—Chapter 17. In addition, the child's IEP team, together with representatives of the resident and receiving districts and the relevant area education agencies, shall determine whether the receiving district is able to provide an appropriate online education to the child, either with or without supplementary aids and services or modifications. Any dispute about whether the receiving district's program is appropriate shall be resolved by the director of special education of the area education agency in which the receiving district is located. The child shall remain in the child's resident district while any dispute about the appropriateness of the receiving district's program is pending.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

DIVISION III
IOWA LEARNING ONLINE (ILO)

281—15.10(256) Appropriate applications of ILO coursework. ILO courses are intended to help Iowa school districts expand learning opportunities by providing opportunities for individual students to take one or more courses offered “at a distance” using technologies such as the Internet and interactive videoconferencing. Participating school districts and accredited nonpublic schools may also enroll students in ILO courses if online learning is more suited to a specific student's circumstances.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.11(256) Inappropriate applications of ILO coursework; criteria for waiver. ILO courses are not to be used by a participating school district or accredited nonpublic school as a long-term substitute for any course required to be offered and taught under 281—Chapter 12. The department may grant for one year a waiver from the requirement to offer and teach a specific subject if the school district or accredited nonpublic school documents all of the following:

1. The subject and grading period or periods for which waiver is requested.
2. Reasons why the school district or accredited nonpublic school does not have a teacher employed who is appropriately licensed and endorsed for the educational level and content area being taught.
3. The steps taken by the school district or accredited nonpublic school to employ a teacher who is appropriately licensed and endorsed for the educational level and content area being taught.
4. Approval of the request by the local school board.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.12(256) School and school district responsibilities. Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21, a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic school is responsible for recording grades received for ILO coursework in a student's permanent record and for awarding graduation credit for ILO coursework. Each participating school district and accredited nonpublic school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school.

[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.13(256) Department responsibilities. The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality and is aligned with Iowa's core curriculum and core content requirements and standards as well as with national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework.
[ARC 0522C, IAB 12/12/12, effective 1/16/13]

281—15.14(256) Enrollment in an ILO course. A student must be enrolled in a participating school district or accredited nonpublic school. The student's school of enrollment registers the student for the desired ILO course. Students may not enroll or be enrolled by their parents or guardians in ILO courses directly. Students under competent private instruction may access ILO coursework on the same basis as regularly enrolled students of the school district by dual enrollment in the school district in which the student is a resident.
[ARC 0522C, IAB 12/12/12, effective 1/16/13]

These rules are intended to implement Iowa Code sections 256.2, 256.7, 256.9, and 256.42.

[Filed 4/13/90, Notice 1/10/90—published 5/2/90, effective 6/6/90]

[Filed ARC 0522C (Notice ARC 0302C, IAB 8/22/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 2313C (Notice ARC 2118C, IAB 9/2/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

281—25.1(260H,260I) Scope. The rules in this chapter implement the pathways for academic career and employment (PACE) program under 2011 Iowa Code Supplement chapter 260H and the gap tuition assistance program under 2011 Iowa Code Supplement chapter 260I.
[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.2(260H,260I) Definitions.

“*Department*” means the Iowa department of education.

“*Director*” means the director of the Iowa department of education.

“*Dislocated worker*” means an individual eligible for services and benefits under the federal Trade Adjustment Act of 2002, P.L. 107-210. An individual must meet both criteria 1 and 2, plus any one of criteria 3 through 8:

1. The individual is registered for the selective service, if applicable; and
2. The individual is a citizen or national of the United States, a lawfully admitted permanent resident alien, a lawfully admitted refugee or parolee or an individual authorized by the Attorney General to work in the United States.
3. The individual:
 - Has been laid off or terminated, and
 - Is eligible for or has exhausted entitlement to unemployment compensation, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
4. The individual:
 - Is in receipt of a notice of layoff or termination from employment, and
 - Will be entitled to unemployment compensation at the time of layoff or termination, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
5. The individual:
 - Has been laid off or terminated, or has received a termination notice, and
 - Has been employed for a duration of time to sufficiently demonstrate attachment to the workforce, and
 - Is not eligible for unemployment compensation due to insufficient earnings, or has performed services for an employer not covered under the unemployment compensation law, and
 - Is unlikely to return to the individual’s previous industry or occupation; or
6. The individual has been laid off or terminated, or has received notice of layoff or termination, as a result of a permanent closure of or any substantial layoff at a plant, facility or enterprise; or
7. The individual was formerly self-employed and is unemployed from the individual’s business; or
8. The individual:
 - Is a displaced homemaker who has been providing unpaid services to family members in the home, and
 - Has been dependent on the income of another family member, and is no longer supported by that income, and
 - Is unemployed or underemployed, and
 - Is experiencing difficulty in obtaining or upgrading employment.

“*Federal poverty level*” means the most recently revised poverty income guidelines published by the federal Department of Health and Human Services.

“*IWD*” means the Iowa workforce development department.

“*Low skilled*” means an adult individual who is basic skills deficient, has lower level digital literacy skills, has an education below a high school diploma, or has a low level of educational attainment

that inhibits the individual's ability to compete for skilled occupations that provide opportunity for a self-sufficient wage.

"State board" means the Iowa state board of education.

"Underemployed" means an adult individual who is working less than 30 hours per week, or who is employed any number of hours per week in a job that is substantially below the individual's skill level and that does not lead to self-sufficiency.

"Unemployed" means an adult individual who is involuntarily unemployed and is actively engaged in seeking employment.

[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.3 to 25.10 Reserved.

DIVISION II PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

281—25.11(260H) Purpose. The pathways for academic career and employment program (hereinafter referred to as PACE) is established to provide funding to community colleges for the development of projects that will lead to gainful, quality, in-state employment for members of target populations by providing them with both effective academic and employment training to ensure gainful employment and customized support services.

[ARC 0102C, IAB 4/18/12, effective 5/23/12; ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.12(260H) Target populations. Individuals included in target populations are those individuals who meet one or more of the following:

1. Are deemed by definition to be low skilled.
2. Earn incomes at or below 250 percent of the federal poverty level.
3. Are unemployed.
4. Are underemployed.
5. Are dislocated workers.

[ARC 0102C, IAB 4/18/12, effective 5/23/12; ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.13(260H) Eligibility criteria for projects. Projects eligible for funding for PACE shall be projects that further the ability of members of target populations to secure gainful, quality employment; that further partnerships linking community colleges to industry and nonprofit organizations; and that further the following program outcomes:

25.13(1) Enabling members of the target populations to:

- a. Acquire and demonstrate competency in basic skills.
- b. Acquire and demonstrate competency in a specified technical field.
- c. Complete a specified level of postsecondary education.
- d. Earn a national career readiness certificate.
- e. Obtain employer-validated credentials.
- f. Secure gainful employment in high-quality, local jobs.

25.13(2) Meeting economic and employment goals including but not limited to:

a. Economic and workforce development requirements in each region served by the community colleges as defined by regional advisory boards established pursuant to Iowa Code section 84A.4.

b. Needs of industry partners in areas including but not limited to the fields of information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in-demand by a regional advisory board established pursuant to Iowa Code section 84A.4.

[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.14(260H) Program component requirements. Program components for a PACE project implemented at a community college shall:

25.14(1) Include measurable and effective recruitment, assessment, and referral activities designed for the target populations.

25.14(2) Integrate basic skills and work-readiness training with occupational skills training.

25.14(3) Combine customized supportive and case management services with training services to help participants overcome barriers to employment.

25.14(4) Provide training services at times, locations, and through multiple, flexible modalities that are easily understood and readily accessible to the target populations. Such modalities shall support open entry, individualized learning, and flexible scheduling, and may include online remediation, learning lab and cohort learning communities, tutoring, and modularization.

[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.15(260H) Pipeline program. Each community college receiving funding for PACE shall develop a pipeline program in order to better serve the academic, training, and employment needs of the target populations. A pipeline program shall have the following goals:

25.15(1) To strengthen partnerships with community-based organizations and industry representatives.

25.15(2) To improve and simplify the identification, recruitment, and assessment of qualified participants.

25.15(3) To conduct and manage an outreach, recruitment, and intake process, along with accompanying support services, reflecting sensitivity to the time and financial constraints and remediation needs of the target populations.

25.15(4) To conduct orientations for qualified participants to describe regional labor market opportunities, employer partners, and program requirements and expectations.

25.15(5) To describe the concepts of the project implemented with funds from PACE and the embedded educational and support resources available through such project.

25.15(6) To outline the basic skills participants will learn and describe the credentials participants will earn.

25.15(7) To describe success milestones and ways in which temporal and instructional barriers have been minimized or eliminated.

25.15(8) To review how individualized and customized service strategies for participants will be developed and provided.

[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.16(260H) Career pathways and bridge curriculum development program. Each community college receiving funding for PACE shall develop a career pathway and bridge curriculum development program in order to better serve the academic, training, and employment needs of the target populations. A career pathways and bridge curriculum development program shall have the following goals:

25.16(1) The articulation of courses and modules, the mapping of programs within career pathways, and the establishment of bridges between credit and noncredit programs.

25.16(2) The integration and contextualization of basic skills education and skills training. This process shall provide for seamless progressions between adult basic education and general education development programs and continuing education and credit certificate, diploma, and degree programs.

25.16(3) The development of career pathways that support the attainment of industry-recognized credentials, diplomas, and degrees.

[ARC 0102C, IAB 4/18/12, effective 5/23/12; ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.17(260H) Pathway navigators.

25.17(1) A community college may use moneys for the PACE program to employ pathway navigators to assist students applying for or enrolled in eligible pathways for academic career and employment projects.

25.17(2) Pathway navigators shall provide services and support to aid students in selecting PACE projects that will result in gainful, quality, in-state employment and to ensure students are successful once enrolled in PACE projects. Services the pathway navigators may provide include but are not limited to the following:

- a. Interviewing and selecting students for enrollment in PACE projects.
- b. Assessing students' skills, interests, and previous academic and work experience for purposes of placement in PACE projects.
- c. Working with students to develop academic and career plans and to adjust such plans as needed.
- d. Assisting students in applying for and receiving resources for financial aid and other forms of tuition assistance.
- e. Assisting students with the admissions process, remedial education, academic credit transfer, meeting assessment requirements, course registration, and other procedures necessary for successful completion of PACE projects.
- f. Assisting in identifying and resolving obstacles to students' successful completion of PACE projects.
- g. Connecting students with useful college resources or outside support services such as access to child care, transportation, and tutoring assistance, as needed.
- h. Maintaining ongoing contact with students enrolled in PACE projects and ensuring students are making satisfactory progress toward the successful completion of projects.
- i. Providing support to students transitioning from remedial education, short-term training, and classroom experience to employment.
- j. Coordinating activities with community-based organizations that serve as key recruiters for PACE projects and assisting students throughout the recruitment process.
- k. Coordinating adult basic education services.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.18(260H) Regional industry sector partnerships.

25.18(1) A community college may use moneys for the PACE program to provide staff and support for the development and implementation of regional industry sector partnerships within the region served by the community college.

25.18(2) Regional industry sector partnerships may include but are not limited to the following activities:

- a. Bringing together representatives from industry sectors, government, education, local workforce boards, community-based organizations, labor, economic development organizations, and other stakeholders within the regional labor market to determine how PACE projects should address workforce skills gaps, occupational shortages, and wage gaps.
- b. Integrating PACE projects and other existing supply-side strategies with workforce needs within the region served by the community college.
- c. Developing PACE projects that focus on the workforce skills, from entry-level to advanced, required by industry sectors within the region served by the community college.
- d. Structuring pathways so that instruction and learning of workforce skills are aligned with industry-recognized standards where such standards exist.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.19 Reserved.

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

281—25.20(260I) Purpose. A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to enable applicants to complete continuing education certificate training programs for in-demand occupations.

[ARC 0102C, IAB 4/18/12, effective 5/23/12]

281—25.21(260I) Applicants for tuition assistance.

25.21(1) Eligibility criteria. Eligibility for tuition assistance shall be based on financial need. Applicants may be found eligible for partial or total tuition assistance. Tuition assistance shall not be approved when the community college receiving the application determines that funding for an

applicant's participation in an eligible certificate program is available from any other public or private funding source.

a. Criteria to determine financial need shall include but not be limited to:

- (1) The applicant's family income for the six months prior to the date of application.
- (2) The applicant's family size.
- (3) The applicant's county of residence.

b. An applicant for tuition assistance under this chapter must have a demonstrated capacity to achieve the following outcomes:

- (1) The ability to complete an eligible certificate program.
- (2) The ability to enter a postsecondary certificate, diploma, or degree program for credit.
- (3) The ability to gain full-time employment.
- (4) The ability to maintain full-time employment over a period of time.

c. The community college receiving the application shall, after considering factors including but not limited to the following, approve an applicant for tuition assistance under this chapter only if the community college determines that applicant is likely to succeed in achieving the outcomes described in 25.16(2):

- (1) Barriers that may prevent an applicant from completing the certificate program.
- (2) Barriers that may prevent an applicant from gaining employment in an in-demand occupation.

25.21(2) Additional provisions.

a. An applicant for tuition assistance under Division II of this chapter shall provide to the gap tuition assistance coordinator at the community college receiving the application documentation of all sources of income.

b. Only an applicant eligible to work in the United States shall be approved for tuition assistance under Division II of this chapter.

c. An application shall be valid for six months from the date of signature on the application.

d. An applicant shall not be approved for tuition assistance under Division II of this chapter for more than one eligible certificate program.

e. Eligibility for tuition assistance under Division II of this chapter shall not be construed to guarantee enrollment in any community college certificate program.

f. Eligibility for tuition assistance under Division II of this chapter shall be limited to persons earning incomes at or below 250 percent of the federal poverty level as defined by the most recently revised poverty guidelines published by the U.S. Department of Health and Human Services.

g. Applicants earning incomes between 150 percent and 250 percent, both percentages inclusive, of the federal poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services shall be given first priority for tuition assistance under this chapter. Persons earning incomes below 150 percent of the federal poverty level shall be given secondary priority for tuition assistance under this chapter.

h. An applicant who is eligible for financial assistance pursuant to the federal Workforce Investment Act of 1998, Pub. L. No. 105-220, or the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, shall be ineligible for tuition assistance under this chapter unless such funds budgeted for training assistance for adult, dislocated worker, or youth programs have been fully expended by a workforce region.

[ARC 1875C, IAB 2/18/15, effective 3/25/15; ARC 2309C, IAB 12/9/15, effective 1/13/16]

281—25.22(260I) Eligible costs. Costs of a certificate program eligible for coverage by gap tuition assistance shall include but are not limited to the following:

1. Tuition.
2. Direct training costs.
3. Required books and equipment.
4. Fees, including but not limited to fees for industry testing services and background checks.
5. Costs of providing direct staff support services, including but not limited to marketing, outreach, application, interview, and assessment processes. Eligible costs for this purpose shall be limited to

20 percent of any allocation of moneys to the two smallest community colleges, 10 percent of any allocation of moneys to the two largest community colleges, and 15 percent of any allocation of moneys to the remaining 11 community colleges. Community college size shall be determined based on the most recent three-year rolling average full-time equivalent enrollment.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.23(260I) Eligible certificate programs. For the purposes of this chapter, “eligible certificate program” means a program meeting all of the following criteria:

25.23(1) The program is not offered for credit but is aligned with a certificate, diploma, or degree for credit, and does at least one of the following:

- a. Offers a nationally, state-, or locally recognized certificate.
- b. Offers preparation for a professional examination or licensure.
- c. Provides endorsement for an existing credential or license.
- d. Represents recognized skill standards defined by an industrial sector.
- e. Offers a similar PACE credential or training.

25.23(2) The program offers training or a credential in an in-demand occupation. For the purposes of this chapter, “in-demand occupation” includes occupations in information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in demand by a regional advisory board established pursuant to Iowa Code section 84A.4.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.24(260I) Initial assessment. An eligible applicant for tuition assistance under Division II of this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant’s readiness to complete an eligible certificate program. The assessment shall include assessments for completion of a national career readiness certificate, including the areas of reading for information, applied mathematics, and locating information. An applicant must achieve at least a national bronze-level certificate defined as a minimum level 3 for reading, mathematics, and locating information in order to be approved for tuition assistance. An applicant shall complete any additional assessments and occupation research required by the gap tuition assistance program or an eligible certificate program, or both.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.25(260I) Program interview. An eligible applicant for tuition assistance under Division II of this chapter shall meet with the gap tuition assistance coordinator for an eligible certificate program offered by the community college receiving the application. The gap tuition assistance coordinator shall discuss the relevant industry, any applicable occupation research, and any applicable training relating to the eligible certificate program. The discussion shall include an evaluation of the applicant’s capabilities, needs, family situation, work history, education background, attitude and motivation, employment dates, support needs, and other requirements for an eligible certificate program.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.26(260I) Participation requirements.

25.26(1) A participant in an eligible certificate program who receives tuition assistance pursuant to Division II of this chapter shall do all of the following:

- a. Maintain regular contact with staff members for the certificate program to document the applicant’s progress in the program.
- b. Sign a release form to provide relevant information to community college faculty or case managers.
- c. Discuss with staff members for the certificate program any issues that may impact the participant’s ability to complete the certificate program, obtain employment, and maintain employment over a period of time.
- d. Attend all required courses regularly.
- e. Meet with staff members for the certificate program to develop a job search plan.

25.26(2) A community college may terminate tuition assistance for a participant who fails to meet the requirements of this rule. The participant may utilize the community college's local appeal process to contest termination from the program. The process to appeal a termination will be provided to a participant through the gap tuition assistance coordinator.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.27(260I) Oversight. Statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program are coordinated by the department.

25.27(1) A steering committee consisting of the Iowa department of education, the Iowa workforce development department, and community college continuing education deans and directors is established to determine if the performance measures of the gap tuition assistance program are being met and to correct any deficiencies. The steering committee shall meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

25.27(2) A common intake tracking system is established and shall be implemented consistently by each participating community college. The community colleges will work cooperatively in establishing the system, and the Iowa department of education will assist in gathering required reporting data elements.

25.27(3) The steering committee will develop the required program criteria for PACE and gap tuition assistance-certified programs to be eligible for tuition assistance and program funding. These criteria will be developed based on best practices in the development and delivery of career pathway programs that provide a clear sequence of education coursework and credentials aligned with regional workforce skill needs; clearly articulate from one level of instruction to the next; combine occupational skills and remedial adult education; lead to the attainment of a credential or degree; assist with job placement; and provide wraparound social and socioeconomic support services with the goal of increasing the individual's skills attainment and employment potential.

[ARC 1875C, IAB 2/18/15, effective 3/25/15]

281—25.28(260I) Oversight. Rescinded **ARC 1875C**, IAB 2/18/15, effective 3/25/15.

These rules are intended to implement 2014 Iowa Code chapters 260H and 260I.

[Filed ARC 0102C (Notice ARC 0020C, IAB 2/22/12), IAB 4/18/12, effective 5/23/12]

[Filed ARC 1875C (Notice ARC 1783C, IAB 12/10/14), IAB 2/18/15, effective 3/25/15]

[Filed ARC 2309C (Notice ARC 2182C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

281—98.1(256,257) Definitions. For the purposes of this chapter, the following definitions apply:

“Budgetary allocation” means the portion of the funding that is specifically earmarked for a particular purpose or designated program and that, in the case of the general fund, has been rolled into, or added to, the school district cost per pupil or school district regular program cost. Budgetary allocations may include both state aid and property tax. Budgetary allocations increase budget authority on the first day of the fiscal year for which the allocation has been certified or on the date that the school budget review committee approves the modified supplemental amount for a specific purpose or program; the budget authority remains even if the full amount of revenue is not received or if the local board does not levy a cash reserve. There is no assumption that a school district or area education agency will receive the same amount of revenue as it has received in budget authority due to delinquent property taxes, cuts in state aid, or legislative decisions to fund other instructional programs off the top of state aid. The school district or area education agency must expend the full amount of budget authority for the specific purposes for which it was earmarked. When the school district or state cost per pupil is transferred from one school district to another school district in the form of tuition as required by the Iowa Code, any budgetary allocation that is included in the school district or state cost per pupil shall be considered transferred to the receiving school district and shall be expended for the specific purpose for which it was earmarked.

“Categorical funding” means financial support from state and federal governments that is targeted for particular categories of students, special programs, or special purposes. This support is in addition to school district or area education agency general purpose revenue, is beyond the basic educational program, and most often has restrictions on its use. Where categorical funding requires a local match, that local match also is considered to be categorical funding. Categorical funding includes both grants in aid and budgetary allocations. Although grants in aid and budgetary allocations are both categorical funding, they are defined separately to distinguish unique characteristics of each type of categorical funding.

“Community education” means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

Community education energizes people to strive for the achievement of determined goals and stimulates capable persons to assume leadership responsibilities. It welcomes and works with all groups, it draws no lines. It is the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.

“Grants in aid” means financial support, usually from state or federal appropriations, that is either allocated to the school district or area education agency or for which a school district or area education agency applies. This support is paid separately from state foundation aid. In the general fund, grants in aid become miscellaneous income and increase budget authority when the support is received as revenue.

“Supplement, not supplant” means that the categorical funding shall be in addition to general purpose revenues; that categorical funding shall not be used to provide services required by federal or state law, administrative rule, or local policy; and that general purpose revenues shall not be diverted for other purposes because of the availability of categorical funding. Supplanting is presumed to have occurred if the school district or area education agency uses categorical funding to provide services that it was required to make available under other categorical funding or law, or uses categorical funding to provide

services that it provided in prior years from general purpose revenues, or uses categorical funding to provide services to a particular group of children or programs for which it uses general purpose revenues to provide the same or similar services to other groups of children or programs. These presumptions are rebuttable if the school district or area education agency can demonstrate that it would not have provided the services in question with general purpose revenues if the categorical funding had not been available.

“Technology” means hardware, noninstructional software and software required to provide functionality to the hardware, wireless presenters, networking and connectivity systems, computing storage, Web site development services, hardware carrying equipment, licensing, and technical assistance for installation of hardware, software, or software updates. Technology does not include such items as instructional software or textbook substitutes as defined in Iowa Code chapter 301, professional development, staff providing support to teachers or students, general supplies, district personnel or individuals/companies hired or contracted in lieu of district personnel, travel, printing costs or media services not listed in this definition, insurance, most purchased services, or similar district functions. Maintenance contracts do not meet the definition of “technology” unless they are actually a license renewal fee; Internet subscriptions, licenses, or fees; cable or satellite services; or very similar services. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.2(256,257) General finance. The categorical funding provided for various purposes to school districts and area education agencies includes general financial characteristics that are detailed in the following subrules.

98.2(1) Indirect cost recovery. Categorical funding provided by the state to school districts or area education agencies is not eligible for indirect cost recovery unless the Iowa Code section authorizing the funding or allocation expressly states that indirect cost recovery is permitted from that source. If the Iowa Code permits indirect cost recovery, the school district or area education agency shall utilize its restricted indirect cost rate developed by the department for federal programs from data submitted by the school district or area education agency on its certified annual report.

98.2(2) Restriction on supplanting. Categorical funding shall supplement, but shall not supplant, expenditures in the appropriate fund into which the categorical funding is deposited and accounted for, unless the Iowa Code section authorizing the funding or allocation expressly states that supplanting is permitted from that source.

98.2(3) Mandatory carryforward. Any portion of categorical funding provided by the state that is not expended by the end of the fiscal year in which it was received by or for which it was allocated to the school district or area education agency shall be carried forward as a reserved fund balance and added to the subsequent year’s budget for that purpose. The funding can only be expended for the purposes permitted for that categorical funding. Where a local match is required for categorical funding, the amount unexpended at the end of the fiscal year that is carried forward shall not be used as part of the required local match.

98.2(4) Discontinued funding. In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency shall carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes which were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This subrule does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11 (2007 and 2007 Supplement).

98.2(5) Expenditures. Expenditures from categorical funding shall be limited to direct costs of providing the program or service for which the funding was intended. Expenditures shall not include costs that are allocated costs or that are considered indirect costs or overhead. Expenditures for the functions of administration, business and central services, operation and maintenance of plant, transportation, enterprise and community service operations, facility acquisition and construction, or debt service generally are not allowed from categorical funding unless expressly allowed by the Iowa

Code or if the expenditure represents a direct, allowable cost. In order for costs of administration, business and central services, operation and maintenance of plant, transportation, or enterprise and community service operations to be considered direct costs, the costs must be necessary because of something that is unique to the program that is causing the need for the service, not otherwise needed or not otherwise provided to similar programs; the costs must be in addition to those which are normally incurred; and the costs must be measurable directly without allocating. Where a local match is required for categorical funding, that local match requirement shall not be met by the use of other categorical funding except where expressly allowed by the Iowa Code. Expenditures shall not include reimbursing the school district or area education agency for expenditures it paid in a previous year in excess of the funding available for that year.

98.2(6) *Restriction on duplication.* The school district or area education agency shall not charge the same cost to more than one funding source.

98.2(7) *Excess expenditures.* The school district or area education agency shall not charge to categorical funding more expenditures than the total of the current year's funding or allocation plus any carryforward balance from the previous year.

98.2(8) *Commingling prohibited.* Categorical funding shall not be commingled with other funding. All categorical funding shall be accounted for separately from other funding. School districts and area education agencies shall use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as appropriate or required.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

281—98.3 to 98.10 Reserved.

DIVISION II APPROPRIATE USE OF BUDGETARY ALLOCATIONS

281—98.11(257) Categorical and noncategorical student counts. The certified enrollment data collection includes both student counts related to budgetary allocations for the subsequent budget year that are provided for the purpose of offering a program that is in addition to the basic educational program for a specific category of students and student counts that are general in nature and can be used for any legal general fund purpose. Student counts that are general in nature are used to generate funding through the school aid foundation formula and are not intended to fund a specific program or a specific category of students. General student counts include the basic enrollment of full-time resident students.

Counts for part-time nonpublic students participating in public school classes pursuant to Iowa Code section 257.6(3) and counts for part-time dual enrolled competent private instruction students in grades 9 through 12 are the full-time equivalent enrollment of a regularly enrolled student. Counts for dual enrolled competent private instruction students in grades lower than grade 9 are the legislatively set equivalent of a regularly enrolled full-time student. Counts for part-time nonpublic students and for part-time dual enrolled competent private instruction students in grades 9 through 12 who participate in the postsecondary enrollment option Act classes are the full-time equivalent of a regularly enrolled student based on cost. Because these counts are the full-time equivalent of a regularly enrolled student, and are not in addition to the full-time equivalent, the funding generated within the school aid foundation formula based on these counts is considered general in nature.

Student counts related to categorical budgetary allocations are those that generate funding intended to be used for only that specific category of students being counted or for the specific program for which the additional counts are authorized in the Iowa Code.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1) "a"(5) shall be expended for purposes of providing the home school assistance program.

98.12(1) *Appropriate uses of categorical funding.* Appropriate uses of the home school assistance program funding include, but are not limited to, the following:

- a.* Instruction for students and assistance for parents with instruction.
- b.* Services to support students enrolled in a home school assistance program, to support the teaching parents of the students, and to support home school assistance program staff.
- c.* Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.
- d.* Salary and benefits for clerical and office staff of the home school assistance program. If the staff member's employment supports other programs of the school district, only that portion of the staff member's salary and benefits that is related to providing the home school assistance program can be charged to the program.
- e.* Staff development for the home school assistance program teacher.
- f.* Travel for the home school assistance program teacher.
- g.* Resources, materials, computer software, supplies, equipment, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.
- h.* A copier and computer hardware that support the home school assistance program.
- i.* Student transportation exclusively for home school assistance program-approved field trips or other educational activities.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs other than those necessary to operate and maintain the program; capital expenditures other than equipment or the lease or rental of space to supplement existing schoolhouse facilities for the program; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs other than the costs necessary to administer the program; concurrent and dual enrollment costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys or resources paid for with this program funding to parents or students utilizing the program. For capital expenditures for lease or rental of classrooms or facilities for this program, the cost will be expended from a capital projects fund. A reimbursement for that cost related to the program will be an interfund transfer to the capital project fund from the program funding.

[**ARC 8054B**, IAB 8/26/09, effective 9/30/09 (See Delay note at end of chapter); **ARC 9267B**, IAB 12/15/10, effective 1/19/11; **ARC 0012C**, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); **ARC 1967C**, IAB 4/15/15, effective 5/20/15]

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but up to 5 percent of the allocation can be used for actual documented costs of program administration, outreach activities, and rent for facilities not owned by the school district.

98.13(2) *Pass-through funding to community-based providers.* The school district shall pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

- a.* The community-based provider may use up to 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and

transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

b. Any portion of the 95 percent not documented as expended for direct instruction or administrative and operational costs as allowed by this rule shall be refunded to the district annually on or before July 1.

c. Any portion refunded to the district shall be added to the total amount available for the district's approved local program for the subsequent school year.

98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 0518C, IAB 12/12/12, effective 1/16/13; ARC 1967C, IAB 4/15/15, effective 5/20/15; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.14(257) Supplementary weighting. Supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of students and staff between school districts and providing postsecondary opportunities for qualified students. It is assumed that supplementary weighting covers only a portion of the costs of sharing or providing postsecondary opportunities and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the supplementary weighting funding separate from the general purpose revenues.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.15(257) Operational function sharing supplementary weighting. Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing management-level staff, a curriculum director, or a school counselor and shall be fully expended within the five-year period of sharing. Therefore, school districts are not required to account for the operational function sharing supplementary weighting funding separate from the general purpose revenues.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.16(257,280) Limited English proficiency (LEP) weighting. Limited English proficiency weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of providing funding for the excess costs of instruction of limited English proficiency students above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant a modified supplemental amount to continue funding of the excess costs beyond the five years of weighting. Funding for the limited English proficiency weighting and the modified supplemental amount for limited English proficiency programs are both categorical funding and may have different restrictions than the federal limited English proficiency funding.

98.16(1) *Appropriate uses of categorical funding.* Appropriate uses of funding for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures include, but are not limited to, salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in limited English proficiency programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of limited English proficiency students and community services specific to limited English proficiency.

98.16(2) *Inappropriate uses of categorical funding.* Inappropriate uses of funding for the limited English proficiency program include, but are not limited to, indirect costs, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the limited English proficiency program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting. Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to students identified as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school pursuant to Iowa Code section 257.11(4)“a” as amended by 2015 Iowa Acts, House File 658, section 37.

98.18(1) *Appropriate uses of categorical funding.* Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils, alternative programs and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include, but are not limited to:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of identified students participating in the approved programs when the teacher (or counselor) is dedicated to providing services directly and exclusively to the identified students beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. If the teacher (or counselor) is part-time serving the program and part-time regular classroom teacher (or counselor), then the portion of time that is related to these programs may be charged to the program funding, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with identified students under an approved program or in an alternative school setting.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district’s approved at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student’s behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student’s behavior is covered by insurance or Medicaid.

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

e. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4)“a” as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 as amended by 2015 Iowa Acts, House File 658, may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.18(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the formula supplementary weighting program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.18(1), administrative costs other than as allowed in subrule 98.18(1), or any other expenditures not directly related to providing the approved program beyond the scope of the regular classroom program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.19(257) Reorganization incentive weighting. Reorganization incentive weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting reorganization of school districts to increase student learning opportunities. It is assumed that reorganization incentive weighting covers only a portion of the costs of reorganizing and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the reorganization incentive weighting funding separate from the general purpose revenues.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.20(257) Gifted and talented program. Gifted and talented program funding is included in the school district cost per pupil calculated for each school district under the school foundation formula. The per-pupil amount increases each year by the supplemental state aid percentage. This amount must account for not more than 75 percent of the school district’s total gifted and talented program budget. The school district must also provide a local match from the school district’s regular program district cost and the local match portion must be a minimum of 25 percent of the total gifted and talented program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the gifted and talented program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

The purpose of the gifted and talented funding described in Iowa Code section 257.46 is to provide for identified gifted students’ needs beyond those provided by the regular school program pursuant to each gifted student’s individualized plan. The funding shall be used only for expenditures that are directly related to providing the gifted and talented program.

98.20(1) *Appropriate uses of categorical funding.* Appropriate uses of the gifted and talented program funding include, but are not limited to:

a. Salary and benefits for the teacher of gifted and talented students. If the teacher is a part-time gifted and talented and a part-time regular classroom teacher, then the portion of time that is related to the gifted and talented program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

b. Staff development for the gifted and talented teacher.

c. Resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed on the gifted students’ individualized plans, and
- (4) Will remain with the K through 12 gifted and talented program.

d. Student transportation exclusively for approved gifted and talented program field trips or other educational activities.

98.20(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the gifted and talented program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than field trips exclusive to this program, administrative costs, or any other expenditures not directly related to providing the gifted and talented program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.21(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount. A modified supplemental amount is available through a school district-initiated request to the school budget review committee pursuant to Iowa Code section 257.38 as amended by 2015 Iowa Acts, House File 658; section 257.39; and sections 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658. This amount must account for no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, local match, previous year carryforward, and all donations and grants shall be accounted for as categorical funding.

98.21(1) *Purpose of categorical funding.* The purpose of the modified supplemental amount is to provide funding to meet the needs of identified students for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4) as amended by 2015 Iowa Acts, House File 658. The funding shall be used only for expenditures that are directly related to the district's approved program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. Returning dropouts are resident pupils who have been enrolled in a school district in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

b. Potential dropouts are resident pupils who are enrolled in a school district who demonstrate poor school adjustment as indicated by two or more of the following:

- (1) High rate of absenteeism, truancy, or frequent tardiness.
- (2) Limited or no extracurricular participation or lack of identification with school, including but not limited to expressed feelings of not belonging.
- (3) Poor grades, including but not limited to failing in one or more school subjects or grade levels.
- (4) Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.
- (5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

98.21(2) *Appropriate uses of categorical funding.* Appropriate uses of the funding for an approved program include, but are not limited to:

a. Salary and benefits for instructional staff, instructional support staff, and school-based youth services staff dedicated to providing services directly and exclusively to the identified students participating in the approved program beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. However, if the staff person works part-time with students who are participating in the approved program and has another unrelated staff assignment, only the portion of the staff person's time that is related to the program may be charged to the program funding.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all teachers and staff working with identified students under an approved program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through grade 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.

g. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.
- (4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

h. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), administrative costs other than those allowed in subrule 98.21(2), expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any activities performed with identified students that are also provided to all students, or any other expenditures not directly related to providing the approved program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 0518C, IAB 12/12/12, effective 1/16/13; ARC 1967C, IAB 4/15/15, effective 5/20/15; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.22(257) Use of the unexpended general fund balance. The unexpended general fund balance is commonly called the secretary's balance and refers to the fund balance remaining in the general fund at the end of the fiscal year.

98.22(1) *Authorization required.* The school budget review committee may authorize a school district to spend a reasonable and specified amount from its unexpended general fund balance for either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the school district have approved a bond issue as provided by law or the tax levy provided in Iowa Code section 298.2.

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under Iowa Code chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

98.22(2) *Appropriate uses of categorical funding.* Appropriate uses of the unexpended general fund balance include a transfer from the general fund to the capital projects fund in the amount approved by the school budget review committee. The moneys in the capital projects fund shall be used exclusively for furnishing, equipping or constructing a new building or for demolishing an unused building.

98.22(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the unexpended general fund balance include, but are not limited to, expenditures for salaries or recurring costs.

98.22(4) *Mandatory reversion of unused funding.* The portion of the unexpended general fund balance which is authorized to be transferred and expended shall increase budget authority. However, any part of the amount not actually spent for the authorized purpose shall revert to its former status as part of the unexpended general fund balance, and budget authority will be reduced by the amount not actually spent.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement. The program's goals for kindergarten through grade 3 are to provide the resources needed to reduce class sizes in basic skills instruction to the state goal of 17 students for every one teacher; provide direction and resources for early intervention efforts by school districts to achieve a higher level of student success in the basic skills, especially reading skills; and increase communication and accountability regarding student performance.

98.23(1) *Appropriate uses of categorical funding.* Appropriate uses of the Iowa early intervention block grant funding include providing programs, instructional support, and materials at the kindergarten through grade 3 level that include but are not limited to the following:

- a.* Additional licensed instructional staff;
- b.* Additional support for students, such as before- and after-school programs, tutoring, and intensive summer programs;
- c.* The acquisition and administration of diagnostic reading assessments;
- d.* The implementation of research-based instructional intervention programs for students needing additional support;
- e.* The implementation of all-day, everyday kindergarten programs; and
- f.* The provision of intensive training programs to classroom teachers to improve reading instruction and professional development in best practices.

98.23(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the Iowa early intervention block grant program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, or administrative costs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.24(257,284) Teacher salary supplement. Beginning with the fiscal year 2009-2010, the educational excellence Phase II program and the educator quality basic salary program were combined. Remaining balances in the educational excellence Phase II program and the educator quality basic salary program shall be expended for the same purposes as the teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of

a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10, subsection 4. Teacher salary supplement funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.25(257,284) Teacher leadership supplement. The purpose of the teacher leadership supplement is to improve instruction and elevate the quality of teaching and student learning.

98.25(1) *Appropriate uses of categorical funding.* Appropriate uses of teacher leadership supplement funding shall be used only to increase the payment for a teacher assigned to a leadership role pursuant to a framework or comparable system approved pursuant to Iowa Code section 284.15; to increase the percentages of teachers assigned to leadership roles; to increase the minimum teacher starting salary to \$33,500; to cover the costs for the time mentor and lead teachers are not providing instruction to students in a classroom; for coverage of a classroom when an initial or career teacher is observing or co-teaching with a teacher assigned to a leadership role; for professional development time to learn best practices associated with the career pathways leadership process; and for other costs associated with a framework or comparable system approved by the department of education under Iowa Code section 284.15 with the goals of improving instruction and elevating the quality of teaching and student learning. "Payment for a teacher" as used in this rule means additional salary for teachers and the amount required to pay the employer's share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294. Appropriate uses also include payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10(4) and payment to another school district receiving an open enrolled student pursuant to Iowa Code section 282.18.

98.25(2) *Inappropriate uses of categorical funding.* Inappropriate uses of teacher leadership supplement funding shall include any expenditures other than the appropriate uses described in subrule 98.25(1).

[ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.26(257,284) Educator quality professional development, also known as professional development supplement. The purpose of the funding is to implement the professional development provisions of the teacher career paths and leadership roles specified in Iowa Code section 284.7 or 284.15.

98.26(1) *Appropriate uses of categorical funding.* Appropriate uses of the educator quality professional development funding are limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; costs associated with implementing the individual professional development plans; and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code subsection 282.10(4). The use of the funds shall be balanced between school district,

attendance center, and individual professional development plans, and every reasonable effort to provide equal access to all teachers shall be made.

98.26(2) *Inappropriate uses of categorical funding.* Inappropriate uses of educator quality professional development funding include, but are not limited to, any expenditures that supplant professional development opportunities the school district otherwise makes available.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.27 to 98.39 Reserved.

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

281—98.40(256,257,298A) Grants in aid. The state provides a large amount of categorical funding for various purposes to school districts and area education agencies in the form of grants in aid. Only those grants in aid allocated to a substantial number of the school districts and area education agencies through the department of education are included in these rules.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.41 Reserved.

281—98.42(257,284) Beginning teacher mentoring and induction program. The purpose of the beginning teacher mentoring and induction program is to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

98.42(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning teacher mentoring and induction program funding include costs to provide each mentor of a beginning teacher with the statutory award for participation in the school district's or area education agency's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district or area education agency.

98.42(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning teacher mentoring and induction program funding include any costs not listed in subrule 98.42(1) as appropriate uses.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.43(257,284A) Beginning administrator mentoring and induction program. The purpose of the beginning administrator mentoring and induction program is to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

98.43(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning administrator mentoring and induction program funding include costs to provide each mentor with the statutory award for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district.

98.43(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning administrator mentoring and induction program funding shall include any costs that are not listed in subrule 98.43(1) as appropriate uses.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbook" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, other computer courseware and magnetic media, and laptop computers or other portable personal computing devices which are used for nonreligious instructional use only.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include, but are not limited to, reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other than laptop computers or other portable personal computing devices which are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district shall not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

281—98.45(279) Early literacy. School districts shall provide intensive supplemental reading instruction to any student who has been identified as exhibiting a substantial deficiency in reading, based upon an assessment or through teacher observations. The student's reading proficiency shall be reassessed by locally determined or statewide assessments. The student shall continue to be provided with intensive reading instruction until the reading deficiency is remedied. The district shall promote effective evidence-based programming, instruction and assessment practices across schools to support all students in becoming proficient readers by the end of the third grade. Programs and services may extend beyond third grade.

98.45(1) *Appropriate uses of categorical funding.* Appropriate uses of early literacy program funding include, but are not limited to:

- a.* Intensive supplemental instructional programs, instructional support, and assessment for identified students;
- b.* Professional development for staff regarding early literacy program requirements, instructional materials, and assessments;
- c.* Purchase of supplemental or specialized curriculum or instructional materials and assessments that are scientific, research-based and meet the standards of Iowa Code section 279.68 for identified students;
- d.* If not already being provided with other sources of funding or general program funding, tutoring, mentoring, and extended school day, week, or year programs for identified students;
- e.* Intensive summer literacy programs at the K-3 level for identified students;

f. Transportation services for identified students participating in intensive summer literacy programs.

98.45(2) *Inappropriate uses of categorical funding.* Inappropriate uses of early literacy program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.45(1), or administrative costs.

[ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.46 to 98.59 Reserved.

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute shall be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund shall be used as a clearing account for another fund, no fund may retire the debt of another fund unless specifically authorized in statute, and transfers between funds shall be accomplished only as authorized in statute or as approved by the school budget review committee. Public funds shall not be used for private purposes. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund. All moneys received by a school corporation from taxes and other sources shall be accounted for in the general fund, except moneys required by law to be accounted for in another fund. If another fund specifically lists an expenditure to that other fund, it is assumed not to be appropriate to the general fund unless statute expressly states that it is an appropriate general fund expenditure. Each school district and each area education agency shall have only one general fund.

98.61(1) *Sources of revenue in the general fund.* Sources of revenue in the general fund include all moneys not required by law to be accounted for in another fund and interest on the investment of those moneys. Proceeds from the sale or disposition of property other than real property, proceeds from the lease of real or other property, compensation or rent received for the use of school property, sales of school supplies, and sales or rentals of textbooks shall be accounted for in the general fund. Proceeds for loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the general fund. Any revenue or receipt described in law as “miscellaneous income” or related to the modified supplemental amount is restricted to the general fund.

98.61(2) *Appropriate uses of the general fund.* Appropriate expenditures in the general fund include, but are not limited to, the following:

- a.* Providing day-to-day operations to the district or area education agency, such as salaries, employee benefits, purchased services, supplies, and expenditures for instructional equipment.
- b.* Purchasing school buses from unobligated funds on hand.
- c.* Establishing and maintaining dental clinics for children and offering courses of instruction on oral hygiene.
- d.* Employing public health nurses.
- e.* Funding insurance agreements if the district has not certified a district management levy.
- f.* Purchasing books and other supplies to be loaned, rented, or sold at cost to students.
- g.* Purchasing safety eye-protective devices and safety ear-protective devices.
- h.* Purchasing bonds and premiums for bonds for employees who have custody of funds belonging to the school district or area education agency or funds derived from extracurricular activities and other sources in the conduct of their duties.
- i.* Paying assessed costs related to changes in boundaries, reorganization, or dissolution.

j. Publishing the notices and estimates and the actual and necessary expenses of preparing the budget.

k. Engraving and printing school bonds, in the case of a school district.

l. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48 and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, where the original proceeds were accounted for in the general fund.

m. Transferring interest and principal to the debt service fund when due for lease purchase agreements related to capital projects authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

n. Funding asbestos projects including the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, and developing of management plans and record-keeping requirements relating to the presence of asbestos in school buildings and its removal or encapsulation as authorized by the school budget review committee in the case of a school district.

o. Funding energy conservation projects entered into with the department of natural resources or its duly authorized agents or representatives pursuant to Iowa Code section 473.20, in the case of a school district.

p. Transferring to a capital projects fund as authorized by the school budget review committee, in the case of a school district.

q. Transferring to a capital projects fund as funds are due to be expended on a capital project authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

r. Start-up costs, other than land purchase, for the first year of a new student construction program.

s. Paying any other costs not required to be accounted for in another fund.

98.61(3) *Inappropriate uses of the general fund.* Inappropriate expenditures in the general fund include the following:

a. Purchasing land or improvements.

b. Purchasing or constructing buildings or for capital improvements to real property except under special circumstances authorized by the school budget review committee, in the case of a school district, or except as authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

c. Modifying or remodeling school buildings or classrooms even if to make them accessible.

d. Paying interest and principal on long-term indebtedness for which the original proceeds were not accounted for in the general fund.

e. Funding lease-purchases.

f. Purchasing portable buildings.

g. Paying individuals or private organizations that are not audited and allowed and related to goods received or services rendered.

h. Paying other costs that are not operating or current expenditures for public education and are not expressly authorized in the Iowa Code.

98.61(4) *Special levies.* The general fund includes two special levy programs available to school districts, but not to area education agencies, that are restricted by the Iowa Code.

a. *Instructional support program.* The instructional support program is a district-initiated program to provide additional funding to the district's general fund.

(1) Appropriate uses of instructional support program funding. Moneys received by a district for the instructional support program may be used for any general fund purpose except those listed as inappropriate uses in paragraph "b," subparagraph (2).

(2) Inappropriate uses of instructional support program funding. Moneys received by a district for the instructional support program shall not be used as, or in a manner which has the effect of, supplanting funds authorized to be received under Iowa Code sections 257.41 (returning dropouts and dropout prevention programs), 257.46 (gifted and talented programs), 298.4 (management fund levy), and 298.2 (physical plant and equipment fund levy), or to cover any deficiencies in funding for special

education instructional services resulting from the application of the special education weighting plan under Iowa Code section 256B.9.

b. Educational improvement program. The educational improvement program is a district-initiated program available to districts in special circumstances to provide additional funding to the district's general fund if the district already has the instructional support program in place.

(1) Appropriate uses of educational improvement program funding. Moneys received by a district for the educational improvement program may be used for any general fund purpose.

(2) Inappropriate uses of educational improvement program funding. Inappropriate uses of educational improvement program funding include any expenditure not appropriate to the general fund. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.62(279,296,298,670) Management fund. The purpose of this fund is to pay the costs of unemployment benefits; early retirement benefits; insurance agreements; liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards; and judgments or settlements relating to such liability. The authority to establish a management fund is available to school districts but not to area education agencies.

98.62(1) Sources of revenue in the management fund. Sources of revenue in the management fund include a property tax and interest on the investment of those moneys.

98.62(2) Appropriate uses of the management fund. Appropriate expenditures in the management fund include the following:

- a.* Costs of unemployment benefits as provided in Iowa Code section 96.31.
- b.* Costs of liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards.
- c.* Costs of a final court judgment entered against the district or a settlement made for a tort liability claim including interest accruing on the judgment or settlement to the expected date of payment.
- d.* Costs, including prepaid costs, of insurance agreements to protect the school districts from tort liability, loss of property, environmental hazards, or other risk associated with operations, but not including employee benefit plans.
- e.* Costs of early retirement benefits to employees under Iowa Code section 279.46 to pay a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging employees to retire before the normal retirement date for employees 55 years of age or older who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar.
- f.* Costs of a physical inventory conducted solely for the purpose of insurance.
- g.* Transfers to the debt service fund for payment of principal and interest when due on general obligation bonds issued under Iowa Code section 296.7 to protect the school district from tort liability, loss of property, environmental hazards, or other risk associated with operations.
- h.* Transfers to the appropriate fund for the portion of an insurance claim which was eligible under the insurance agreement but was denied because it was within the deductible limit.
- i.* Payment of costs of mediation and arbitration, including but not limited to legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2) "c" above.

98.62(3) Inappropriate uses of the management fund. Inappropriate expenditures in the management fund include the following:

- a.* Costs for employee health benefit plans.
- b.* Costs to conduct physical inventories of property for purposes other than insurance.
- c.* Costs to conduct actuarial studies.
- d.* Costs for supplies or capital outlay.
- e.* Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45.
- f.* Any other costs not expressly authorized in the Iowa Code.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.63(298) Library levy fund. The board of directors of a school district in which there is no free public library may contract with any free public library for the free use of such library by the residents of the school district and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the agreed-upon consideration.

98.63(1) *Sources of revenue in the library levy fund.* Sources of revenue in the library levy fund include a property tax not to exceed \$0.20 per \$1000 of assessed value of the taxable property of the district and interest on the investment of those moneys.

98.63(2) *Appropriate uses of the library levy fund.* Appropriate expenditures in the library levy fund include expenditures necessary to provide a free public library.

98.63(3) *Inappropriate uses of the library levy fund.* Inappropriate expenditures in the library levy fund include the following:

- a. Capital expenditures related to land or buildings.
- b. Debt service.
- c. Any other costs not necessary to provide a free public library.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund. The physical plant and equipment levy (PPEL) consists of the regular PPEL not to exceed \$0.33 per \$1000 of assessed valuation and a voter-approved PPEL not to exceed \$1.34 per \$1000 of assessed valuation, for a total of \$1.67. The authority to establish a PPEL fund is available to school districts but not to area education agencies.

98.64(1) *Sources of revenue in the PPEL fund.* Sources of revenue in the PPEL fund include a property tax, income surtax, and interest on the investment of those moneys, and proceeds from loan agreements in anticipation of the collection of the voter-approved property. Proceeds from the condemnation, sale or disposition of real property are revenue to the PPEL fund. Proceeds from loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the PPEL fund. If the school board intends to enter into a rental, lease, or loan agreement, only a property tax shall be levied for those purposes.

98.64(2) *Appropriate uses of the PPEL fund.* Appropriate expenditures in the PPEL fund include the following:

- a. Purchase of grounds including the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental in the property acquisition.
- b. Improvement of grounds including grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements.
- c. Construction of schoolhouses or buildings.
- d. Construction of roads to schoolhouses or buildings.
- e. Purchasing, leasing, or lease-purchasing equipment or technology exceeding \$500 in value per purchase, lease, or lease-purchase transaction.

(1) "Equipment" means both equipment and furnishings. The cost limitation for equipment does not apply to recreational equipment pursuant to paragraph 98.64(2) "n" or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air-conditioning units that are included in repairs to a building pursuant to paragraph 98.64(2) "h."

(2) "Transaction" means a business deal or agreement between a school district and a provider of goods or services. Technology may be bundled for purposes of exceeding \$500 per transaction.

f. Transferring to debt service for payments, when due, of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

g. Procuring or acquisition of library facilities.

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. "Repairing" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. "Reconstructing" means rebuilding or restoring as an entity a thing which was lost or destroyed. "Maintenance" means to cause to remain in a state of good repair or to keep equipment in effective working condition and ready for daily use. Maintenance includes cleaning, upkeep, inspecting for needed maintenance, preserving the existing state or condition, preventing a decline in the existing state or condition, and replacing parts, unless otherwise a repair.

i. Energy conservation projects.

j. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48, for loans in anticipation of the collection of the voter-approved property under Iowa Code section 297.36, and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, when the original proceeds were accounted for in the PPEL fund.

k. The rental of facilities under Iowa Code chapter 28E.

l. Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds \$2,500. "Repairing," for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds \$2,500.

m. Purchase of buildings or lease-purchase option agreements for school buildings.

n. Purchase of equipment for recreational purposes.

o. Payments to a municipality or other entity as required under Iowa Code section 403.19, subsection 2.

p. Asbestos projects including costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, development of management plans and record-keeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

q. Purchase, erect, or acquire a building for use as a school meal facility, and equip a building for that use.

r. Purchase of land as part of start-up costs for a new student construction program or if the sale proceeds of the previous student construction were insufficient to purchase land, but not for materials and supplies for a facility intended to be sold.

s. Construction materials and supplies for a student-constructed building or shed intended to be retained by and used by the district.

t. Demolition of a district-owned building.

u. Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

98.64(3) *Inappropriate uses of the PPEL fund.* Inappropriate expenditures in the PPEL fund include the following:

a. Student construction materials and supplies for a facility intended to be sold.

b. Salaries and benefits.

c. Travel.

d. Supplies.

e. Facility, vehicle, or equipment maintenance.

f. Printing costs or media services.

g. Any other purpose not expressly authorized in the Iowa Code.
 [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 0012C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); ARC 1967C, IAB 4/15/15, effective 5/20/15; ARC 2310C, IAB 12/9/15, effective 1/13/16]

281—98.65(276,300) Public educational and recreational levy (PERL) fund. Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and on the grounds of the district. Financial support for the community education program shall be provided from funds raised pursuant to Iowa Code chapter 300 and from any private funds and any federal funds made available for the purpose of implementing community education. The authority to establish a levy for a PERL fund is available to school districts but not to area education agencies.

98.65(1) Sources of revenue in the PERL fund. Sources of revenue in the PERL fund include a property tax levy not to exceed \$0.135 per \$1000 of assessed valuation, any appropriation by the agencies involved in a cooperative effort under Iowa Code chapter 28E, federal grants, donations, and interest on the investment of those moneys.

98.65(2) Appropriate uses of the PERL fund. Appropriate expenditures in the PERL fund include the following:

- a. Establishing and maintaining free public recreation places and playgrounds, including necessary accommodations.
- b. Providing free public educational and recreational activities.
- c. Establishing and supervising a free community education program.
- d. Providing a community education director if a community education program is established.

98.65(3) Inappropriate uses of the PERL fund. Inappropriate expenditures in the PERL fund include the following:

- a. Programs for which a fee may be charged such as before- and after-school programs and preschool programs.
- b. Any other costs not necessary to provide free programs for community education and for public recreation places, playgrounds, and programs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.66(257,279,298A,565) District support trust fund. The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency shall not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

98.66(1) Sources of revenue in the district support trust fund. Sources of revenue in the district support trust fund include donations of cash, investment instruments, property, and interest on investments held. In a district support trust fund, both principal and interest are available to benefit the school district's programs.

98.66(2) Appropriate uses of the district support trust fund. Appropriate expenditures in the district support trust fund include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.66(3) Inappropriate uses of the district support trust fund. Inappropriate expenditures in the district support trust fund include transfers to nonprofit or private organizations or any expenditure

which is not consistent with the terms of the agreement, legal to a school district, or for the benefit of the school district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.67(257,279,298A,565) Permanent funds. Permanent funds are used to account for resources received that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs. The school district or area education agency shall not transfer its own resources to a permanent fund. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in permanent funds. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility of the moneys.

98.67(1) Sources of revenue in the permanent funds. Sources of revenue in the permanent funds include donations of cash, investment instruments, property, and interest on investments held. In permanent funds, only interest is available to benefit the school district's programs.

98.67(2) Appropriate uses of the permanent funds. Appropriate expenditures in the permanent funds include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.67(3) Inappropriate uses of the permanent funds. Inappropriate expenditures in the permanent funds include transfers to nonprofit or private organizations, expenditure from principal, or any expenditure which is not consistent with the terms of the agreement, or legal to a school district, or for the benefit of the school district, or any expenditure from the principal portion.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.68(76,274,296,298,298A) Debt service fund. A debt service fund is used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest. A school district or area education agency shall have only one debt service fund.

98.68(1) Sources of revenue in the debt service fund. Sources of revenue in the debt service fund include the levy on taxable property authorized by the voters pursuant to Iowa Code section 298.21 and necessary to service bonds that mature in the current year, transfers from other funds for payments of interest and principal when due that are required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code, and earnings from temporary investment of moneys in the debt service fund.

98.68(2) Appropriate uses of the debt service fund. Appropriate expenditures in the debt service fund include the following:

a. Payment of principal and interest of the lawful bonded indebtedness maturing in the current year as it becomes due. In determining how much is necessary to service bonds that mature in the current year, the board of directors shall consider the amount of earnings from temporary investments of debt service funds and beginning cash balances.

b. Payment of costs of registration of public bonds or obligations.

c. Payment of additional amounts as the board deems necessary to apply on the principal.

d. Payment of principal and interest when due that are required under a loan agreement, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code other than bonded indebtedness paid from resources transferred for that purpose to the debt service fund from other funds.

e. Payment of transfers to the PPEL fund by board resolution when funds remain in the debt service fund after payment of the entire balance of outstanding debt in accordance with the original purpose of the bonded indebtedness and after return of any excess amount transferred into the debt service fund from another fund or other indebtedness. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund pursuant to Iowa Code subsection 278.1(1) "e."

98.68(3) *Inappropriate uses of the debt service fund.* Inappropriate expenditures in the debt service fund include payment of debt issued by one fund from resources transferred from a different fund unless expressly authorized by the Iowa Code and any other expenditure not listed in subrule 98.68(2).
[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.69(76,273,298,298A,423E,423F) Capital projects fund. Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the previous local option sales and services tax for school infrastructure and the current state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

98.69(1) *Sources of revenue in the capital projects fund.* Sources of revenue in a capital projects fund include sale of general obligation bonds, grants and donations for capital facility projects, and transfers from other funds which authorized indebtedness for capital facility projects or which initiated a capital facility project or which received grants or other funding for capital projects, and tax receipts or revenue bonds issued for the state sales and services tax for school infrastructure. In the case of an area education agency, transfers from the general fund to a capital projects fund are limited to payments from proceeds accounted for in the general fund when payments are due on a capital project under a lease-purchase agreement pursuant to Iowa Code subsection 273.3(7).

98.69(2) *Appropriate uses of the capital projects fund.*

a. Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers' or superintendents' home(s).

(2) Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

(3) Transferring to the PPEL fund or debt service fund by board resolution any balance remaining in a capital projects fund after the capital project is completed and after return of any excess amount transferred into the capital projects fund from another fund. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund or debt service fund pursuant to Iowa Code subsection 278.1(1)“e.”

(4) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

b. Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists; otherwise, appropriate expenditures include the following in order:

(1) Payment of principal and interest on revenue bonds issued pursuant to Iowa Code sections 423E.5 and 423F.4 for which the revenue has been pledged.

(2) Reduction of debt service levies.

(3) Reduction of regular and voter-approved PPEL levies.

(4) Reduction of the PERL levy.

(5) Reduction of any schoolhouse tax levy under Iowa Code subsection 278.1(1)“e.”

(6) Any authorized infrastructure purpose of the district pursuant to Iowa Code subsection 423F.3(6), which includes the following:

1. Payment or retirement of outstanding general obligation bonded indebtedness issued for school infrastructure purposes.

2. Payment or retirement of outstanding revenue bonds issued for school infrastructure purposes.

3. Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, remodeling, or demolition of a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, or school bus garage.

4. Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.
5. Expenditures listed in Iowa Code section 298.3.
6. Expenditures listed in Iowa Code section 300.2.
- (7) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

98.69(3) *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the state/local options sales and services tax supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act. Expenditures from the state/local options sales and services tax revenues have the same restriction as expenditures from the supplemental school infrastructure amount, excluding the restriction on payments for bonds issued for new construction.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.70(279,280,298A) Student activity fund. The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies.

98.70(1) *Sources of revenue in the student activity fund.* Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, and any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys.

98.70(2) *Appropriate uses of the student activity fund.* Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

98.70(3) *Inappropriate uses of the student activity fund.* Inappropriate expenditures in the student activity fund include the following:

- a. Maintenance of funds raised by outside organizations.
- b. The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.
- c. Expenditures that lack public purpose.
- d. Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.
- e. Transfers to any other fund of any surplus within the fund.

f. Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.

g. Use of the student activity fund as a clearing account for any other fund.

h. Cash payments to student members of activity groups.

i. The cost of optional equipment or customizing uniforms.

j. The cost of uniforms when the following two tests are not met:

(1) The activity is a part of the school's educational program, and

(2) The wearing of the uniform or equipment is necessary in order to participate.

k. Hospital or medical claims for student injuries or procurement of student medical insurance.

l. Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.

m. Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.

n. Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.71(298A) Entrepreneurial education fund. The entrepreneurial education fund is used to enhance student learning by encouraging students to develop and practice entrepreneurial skills at an early age and to foster a business-ready workforce in this state. A school corporation may establish an entrepreneurial education fund at the request of a student organization or club and upon approval by the school board.

98.71(1) Sources of revenue in the entrepreneurial education fund. Sources of revenue in the entrepreneurial education fund shall consist only of moneys earned through entrepreneurial activities or returns on investments made for entrepreneurial purposes by the student organization or club, private donations and private contributions, and any interest earned on such moneys that are deposited in the fund. At the request of a student organization or club and upon approval by the school board, a school corporation shall transfer moneys in a student activity fund established under Iowa Code section 298A.8, for deposit by the student organization or club in an entrepreneurial education fund. However, a school corporation shall not transfer such moneys unless the moneys are attributable through appropriate documentation to the specific student organization or club and unless the student organization or club shows through appropriate documentation that the student organization or club earned the moneys through entrepreneurial activities of starting, maintaining, or expanding a business venture, including a seasonal business venture, or rendering other labor or services in return for compensation. Entrepreneurial activities do not include charitable contributions or other donations or gifts received by the student organization or club for which no labor or services are rendered.

98.71(2) Appropriate uses of the entrepreneurial education fund. Appropriate uses of the entrepreneurial education fund are limited to expending only for investments made, or activities undertaken, for board-approved entrepreneurial purposes which include investing in a start-up company, early-stage company, or existing company developing a new product or new technology if the investment is in keeping with the education program of the school corporation; if the student organization or club or its members will, as a stated condition of the investment, take an active role in the company which active role directly relates to and furthers the educational purposes for which the student organization or club is established; and if a reasonable return upon the investment is expected.

98.71(3) Inappropriate uses of the entrepreneurial education fund. A student organization or club shall not invest moneys from an entrepreneurial education fund for an entrepreneurial purpose in which a member of the student organization or club, an advisor or supervisor of the student organization or club, or an immediate family member of such persons, has a financial interest.

98.71(4) Fund closure. An entrepreneurial education fund may be closed at the request of the student organization or club for which the school corporation established the fund. All moneys in the fund on

the date of closure and any subsequent return on an investment made with moneys from the fund shall be deposited in the school district's student activity fund.

[ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.72(256B,257,298A) Special education instruction fund. The special education instruction fund is used to account for the revenues and expenditures of the special education instructional program that an area education agency provides for its member districts under Iowa Code subsection 273.9(2). This does not include special education support services as provided by Iowa Code subsection 274.9(3) which are accounted for in the general fund.

98.72(1) Sources of revenue in the special education instruction fund. Sources of revenue in the special education instruction fund include sales of instructional services to districts with students in the special education instruction program and interest on the investment of those moneys.

98.72(2) Appropriate uses of the special education instruction fund. Appropriate expenditures in the special education instruction fund include those authorized to a school district pursuant to Iowa Code chapter 256B and 281—Chapter 41 and included in the written agreement with the school districts.

98.72(3) Inappropriate uses of the special education instruction fund. Inappropriate expenditures in the special education instruction fund include expenditures not allowed to school districts pursuant to Iowa Code chapter 256B and 281—Chapter 41, expenditures for special education support services provided pursuant to Iowa Code subsection 273.9(3), or expenditures for costs not included in the written agreement with the school districts.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.73(282,298A) Juvenile home program instruction fund. The juvenile home program instruction fund is used to account for the revenues and expenditures for the educational program for students residing in juvenile homes as provided by Iowa Code section 282.30. The juvenile home program supplements, but does not supplant, expenditures required of an area education agency under Iowa Code chapter 273. Revenues and expenditures related to federal or state grants serving students in the juvenile homes that supplement, rather than supplant, the juvenile home program are included in the general fund, rather than the juvenile home fund. Educational program costs for students served pursuant to individualized education programs (IEPs) shall not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident district. Educational program costs for out-of-state resident students shall not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident state agency. The area education agency (AEA) is responsible for stewardship of public funds and ensuring that all costs are ordinary and necessary costs of instruction and that classrooms are not overstaffed for the number of students. The AEA shall compare its costs, services, and staffing to the costs, services, and staffing of a similar classroom in the school district in which the juvenile home is located to ensure that they are comparable.

98.73(1) Sources of revenue in the juvenile home program instruction fund. Sources of revenue in the juvenile home program instruction fund include an advance paid pursuant to Iowa Code section 282.31, tuition billed to Iowa resident districts or to out-of-state agencies, grants in aid and interest on the investment of those moneys.

98.73(2) Appropriate uses of the juvenile home program instruction fund. Appropriate expenditures in the juvenile home program instruction fund are ordinary and necessary expenditures approved by the department to provide an instructional program to students residing in juvenile homes and include:

- a. Salary and benefits for classroom teachers and aides providing instruction to students placed in a juvenile home.
- b. Professional development which is specific to strategies to meet the needs of students in placement for all classroom teachers and aides working with students placed in a juvenile home.
- c. Research-based resources, materials, software, supplies, and equipment, and purchased services that are customarily considered instructional and that meet all of the following criteria:
 - (1) Meet the needs of school-age students placed in juvenile homes,
 - (2) Will remain with the AEA juvenile home program, and

(3) Do not duplicate support services responsibilities of the AEA or the responsibilities of the juvenile home in its agreement with the placement agencies.

d. Summer school when necessary for a valid, established educational reason such as being included in the student's IEP or required pursuant to Iowa Code section 279.68.

e. Student support and instructional support expenditures to the extent that they are exclusively devoted to the juvenile home instructional program and are not administrative or clerical. This would include guidance services, curriculum development and instructional technology.

f. Administrative support to the extent the administrator is exclusively assigned to the juvenile home locations and is exclusively providing school-level administrative services directly for the student placed in the juvenile home or the classroom teachers. If the administrator is assigned part-time to the juvenile home locations, then the portion of time that is exclusively and directly related to the juvenile home instructional programs may be charged to the program, but the portion of time that is related to other purposes shall not. The total administrative cost shall not exceed 10 percent of the total of all allowable costs for the juvenile home program.

g. When the students are not required by the placement agency to remain at the juvenile home facility and the juvenile home has no responsibility for treatment in its agreement with the placement agency beyond custodial care, then rent may be allowed. Rent must be approved by the department. The space must be classroom space occupied exclusively by the AEA's instructional program and not include restrooms or any other common spaces. Only if rent is approved may any costs for operation or maintenance of that classroom space be allowed. The total administrative cost in paragraph 98.73(2) "*f*" and the total of rent and associated operation and maintenance shall not exceed 20 percent of the total of all allowable costs for the juvenile home program.

h. Transportation provided by the AEA exclusively to transport students placed at the juvenile home to the students' resident school districts located in Iowa or to the school district in which the juvenile home is located.

98.73(3) *Inappropriate uses of the juvenile home program instruction fund.* Inappropriate expenditures in the juvenile home program instruction fund include the following:

a. Costs estimated or allocated that are expenditures of the agency, such as insuring agency property.

b. Costs that are not ordinary and necessary to provide instruction.

c. Costs related to the juvenile home facility, its responsibilities under the Iowa Code or its agreements with the placement agencies.

d. Costs that were or could have been filed with Medicaid for reimbursement.

e. Debt service.

f. Capital outlay related to facilities. This includes any costs for facility acquisition or construction services, including remodeling and facility repair.

g. Support services that are AEA responsibilities pursuant to the Iowa Code.

h. Rental when adequate space is available at the AEA or at the district of location or when the students require treatment provided by the juvenile home or are required to remain at the juvenile home pursuant to the agreement between the juvenile home and the placement agency.

i. Costs of an audit.

j. Indirect costs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.74(283A,298A) School nutrition fund. All school districts shall operate or provide for the operation of lunch programs at all attendance centers in the school district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

98.74(1) *Sources of revenue in the school nutrition fund.* Sources of revenue in the school nutrition fund include food sales to pupils and adults, ancillary food services, state and federal grants in aid for the operation of a nutrition program, gifts, sales of services to other funds, donated government commodities,

and interest on investment of school nutrition fund moneys. Also included are fees charged for providing food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board. The charges for such services must be no less than the actual costs involved in providing the services including the value of donated government commodities.

98.74(2) *Appropriate uses of the school nutrition fund.* Appropriate expenditures in the school nutrition fund include the following:

a. Expenditures necessary to operate a school breakfast or lunch program such as salaries and benefits for employees necessary to operate the food service program, food, purchased services, supplies, and school nutrition equipment not included in Iowa Code section 283A.9.

b. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board of directors of the school district if those costs are reimbursed by another fund, organization, or individual.

98.74(3) *Inappropriate uses of the school nutrition fund.* Inappropriate expenditures in the school nutrition fund include the following:

a. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises at less than actual costs involved in providing the services including the value of donated government commodities.

b. Operating transfers to any other fund.

c. Costs to purchase, construct, reconstruct, repair, remodel, or otherwise acquire or equip a building for use as a school meal facility. These costs are permitted from the PPEL fund.

d. Costs estimated or allocated that are expenditures of the district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.75(279,298A) Child care and before- and after-school programs fund. The board of directors of a school district may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade 6 before and after school, or to both.

98.75(1) *Sources of revenue in the child care fund.* Sources of revenue in the child care fund include a fee established by the board for the cost of participation in the program. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. The board may require the parent or guardian to furnish transportation of the child. If the board does not establish a fee, it must finance the program through grants or donations. The board may utilize or make application for program subsidies from any existing child care funding streams.

98.75(2) *Appropriate uses of the child care fund.* Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

98.75(3) *Inappropriate uses of the child care fund.* Inappropriate expenditures in the child care fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the child care program or before- and after-school program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.76(298A) Regular education preschool fund. The board of directors of a school district may establish a preschool for students who are not of school age.

98.76(1) *Sources of revenue in the regular education preschool fund.* Sources of revenue in the regular education preschool fund include a fee established by the board for the cost of participation in the program. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. If the board does not establish a fee, it must finance the program through grants or donations. The statewide voluntary four-year-old preschool program established under Iowa Code chapter 256C shall not be accounted for in the regular education preschool fund.

98.76(2) *Appropriate uses of the regular education preschool fund.* Appropriate expenditures in the regular education preschool fund include salaries and benefits for employees necessary to operate the regular education preschool program, purchased services, instructional supplies, and instructional equipment.

98.76(3) *Inappropriate uses of the regular education preschool fund.* Inappropriate expenditures in the regular education preschool fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the regular education preschool program or before- and after-school program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.77(298A) Student construction fund. If the board of directors of a school district establishes a construction program whereby students learn a construction trade and the facility constructed is sold to cover costs of construction, the revenues and expenses will be accounted for in the student construction fund.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.78(298A) Other enterprise funds. Enterprise funds are used to account for any activity for which a fee is charged to external users for goods and services. Enterprise funds are required to be used to account for any activity whose principal revenue sources are fees and charges to recover the costs of providing goods or services where those fees and charges are permitted by the Iowa Code. Funds discussed in rules 281—98.74(283A,298A) through 281—98.77(298A) are enterprise funds. In addition, enterprise funds include those activities related to community service enterprises or enterprises that support the school curricular program. Community service enterprises are activities provided by the district for a fee to the general community or segment of the community that are not in the PERL or library funds such as public libraries, community pool, community wellness center, and community or adult education. Enterprises that support the school program include activities such as a student farm, greenhouse, cooperative purchasing, school stores, or major resale activities.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 1967C, IAB 4/15/15, effective 5/20/15]

281—98.79 to 98.81 Reserved.

281—98.82(298A) Internal service funds. Internal service funds are used to account for the financing of services provided within the district to provide goods or services to other funds, component units, or other governments on a cost-reimbursement basis. The use of an internal service fund is appropriate only for activities in which the agency, school district or area education agency is the predominant participant in the activity. If the district or area education agency is not the primary user of the goods or services provided by the internal service fund, then the activity should be accounted for in an enterprise fund rather than an internal service fund. Internal service funds include, but are not limited to, self-insurance funds, flex-benefit (cafeteria) plan funds, print shops, health reimbursement arrangements (HRAs), central warehousing and purchasing, and central data processing.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.83 to 98.91 Reserved.

281—98.92(257,279,298A,565) Private purpose trust funds. Private purpose trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are not irrevocable trusts and are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and therefore cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. Scholarship trust funds are an example of private purpose trust funds. If a school district has more than one scholarship trust, the school district shall use project codes in accordance with Uniform Financial Accounting for

Iowa School Districts and Area Education Agencies to separately account for the trusts. The district or area education agency shall not transfer its own resources to a private purpose trust fund.

98.92(1) *Sources of revenue in private purpose trust funds.* Sources of revenue in the private purpose trust fund include donations of cash, investment instruments, property, and interest on investments held.

98.92(2) *Appropriate uses of private purpose trust funds.* Appropriate expenditures in the private purpose trust fund include those that are consistent with the terms of the agreement or are for the benefit of a private purpose other than the school district. None of the expenditures will be for the benefit of the school district's programs.

98.92(3) *Inappropriate uses of private purpose trust funds.* Inappropriate expenditures in the private purpose trust fund include any expenditure which is not consistent with the terms of the agreement, not legal to a school district, or that benefits the school district's programs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.93(298A) Other trust funds. Trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. The school district or area education agency shall not transfer its own resources to a trust fund. Other trust funds may include but not be limited to pension trust funds and investment trust funds. Pension trust funds are used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other benefit plans. Typically, these pension trust funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system. Investment trust funds are used to account for the external portion (i.e., the portion that does not belong to the school district) of investment pools operated by the school district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.94 to 98.100 Reserved.

281—98.101(298A) Agency funds. Agency funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Agency funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization which has its own federal identification number (FIN). In an agency fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Agency funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) *Sources of receipts in agency funds.* Sources of receipts in the agency funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

98.101(2) *Appropriate uses of agency funds.* Appropriate disbursements from an agency fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) *Inappropriate uses of agency funds.* Inappropriate disbursements from agency funds include any disbursement which is not consistent with the terms of the agreement, not legal to a school district, or that exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.102 to 98.110 Reserved.

281—98.111(24,29C,257,298A) Emergency levy fund. A school district may levy a tax for the emergency fund upon the approval of the state appeals board. Once the levy has been received, the district may request approval of the school budget review committee to transfer the funds to any other fund of the district for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in Iowa Code subsection 29C.2(1).

98.111(1) Sources of revenue in the emergency levy fund. Sources of revenue for the emergency levy fund include a tax levy not to exceed \$0.27 per \$1000 of assessed value of taxable property, and interest on those moneys.

98.111(2) Appropriate uses of emergency levy fund. Appropriate expenditures in the emergency levy fund include only transfers to other funds for the purpose of meeting deficiencies in a fund arising within two years of a disaster and upon the approval of the school budget review committee.

98.111(3) Inappropriate uses of emergency levy fund. Inappropriate expenditures in the emergency levy fund include any expenditures other than a transfer to another fund and any transfer not approved by the school budget review committee.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

281—98.112(275) Equalization levy fund. If necessary to equalize the division of liabilities and distribution of assets in a reorganization, merger, or dissolution, the board of a school district may provide for the levy of additional taxes upon the property of the former district so as to effect equalization pursuant to Iowa Code section 275.31. Once the levy has been received, the district shall transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied.

98.112(1) Sources of revenue for the equalization levy fund. Sources of revenue for the equalization levy fund include a tax levy pursuant to Iowa Code section 275.31, and interest on those moneys.

98.112(2) Appropriate uses of the equalization levy fund. Appropriate expenditures from the equalization levy fund are limited to transfers to the funds, in the same proportion, for which equalization was necessary and for which the taxes were levied.

98.112(3) Inappropriate uses of the equalization levy fund. Inappropriate uses of the equalization levy fund would include transfers to any fund for which equalization was not required or for which the equalization tax was not levied and any uses other than transfers.

[ARC 8054B, IAB 8/26/09, effective 9/30/09 (See Delay note at end of chapter)]

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298A, 300, 301, 423E, 423F, 565, and 670, Iowa Code sections 11.6(1) “a”(1), 256C.4(1) “c,” 256D.4(3) and 284.13, and 2011 Iowa Code Supplement chapters 298 and 299A.

[Filed ARC 8054B (Notice ARC 7781B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]¹

[Editorial change: IAC Supplement 9/23/09]

[Editorial change: IAC Supplement 12/30/09]

[Filed ARC 9267B (Notice ARC 9017B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 0012C (Notice ARC 9793B, IAB 10/5/11), IAB 2/22/12, effective 3/28/12]²

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0518C (Notice ARC 0387C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1967C (Notice ARC 1881C, IAB 2/18/15), IAB 4/15/15, effective 5/20/15]

[Filed ARC 2310C (Notice ARC 2184C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

¹ September 30, 2009, effective date of 281—98.12(257,299A) and 281—98.112(275) delayed 70 days by the Administrative Rules Review Committee at its meeting held September 8, 2009. At its meeting held December 8, 2009, the Committee voted to delay the effective date of 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly.

² March 28, 2012, effective date of 98.12 and 98.64(2) “e,” “h” delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 41
GRANTING ASSISTANCE
[Prior to 7/1/83, Social Services[770] Ch 41]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—
CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—41.1 to 41.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, Human Services(441—41.1 to 41.9)]

441—41.21(239B) Eligibility factors specific to child.

41.21(1) Age. The family investment program shall be available to a needy child under the age of 18 years without regard to school attendance.

A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month. The family investment program shall also be available to a needy child of 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, as defined in paragraph 41.24(2) "e," and who is reasonably expected to complete the program before reaching the age of 19.

41.21(2) Rescinded, effective June 1, 1988.

41.21(3) Residing with relative. The child shall be living in the home of one of the relatives specified in subrule 41.22(3). When an unwed mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

41.21(4) Rescinded, effective July 1, 1980.

41.21(5) Deprivation of parental care and support. Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code sections 239B.1, 239B.2 and 239B.5.

441—41.22(239B) Eligibility factors specific to payee.

41.22(1) Reserved.

41.22(2) Rescinded, effective June 1, 1988.

41.22(3) Specified relationship.

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father—adoptive father.

Mother—adoptive mother.

Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

Grandmother—grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

Great-grandfather—great-great-grandfather.

Great-grandmother—great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

Uncle—aunt, of whole or half blood.

Uncle-in-law—aunt-in-law.

Great uncle—great-great-uncle.

Great aunt—great-great-aunt.

First cousins—nephews—nieces.

Second cousins, meaning the son or daughter of one's parent's first cousin.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

c. The family investment program is available to a child of unmarried parents the same as to a child of married parents when all eligibility factors are met.

d. The presence of an able-bodied stepparent in the home shall not disqualify a child for assistance, provided that other eligibility factors are met.

41.22(4) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity.

a. When necessary to establish eligibility, the income maintenance unit shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family investment program family or other sources of information indicate that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the income maintenance unit shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

41.22(5) *Referral to child support recovery unit.* The income maintenance unit shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

a. A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. "Prompt notice" means within two working days of the date assistance is approved.

41.22(6) *Cooperation in obtaining support.* Each applicant for or recipient of the family investment program shall cooperate with the department in establishing paternity and securing support for persons whose needs are included in the assistance grant, except when good cause as defined in 41.22(8) for refusal to cooperate is established.

a. The applicant or recipient shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom aid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed.

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed.

(4) Rescinded IAB 12/3/97, effective 2/1/98.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the office of the income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

(4) Paying to the department any cash support payments for a member of the eligible group, except as described at 41.27(7) “p” and “q,” received by a recipient after the date of decision as defined in 441—subrule 40.24(4).

(5) Providing the name of the absent parent and additional necessary information.

c. The applicant or recipient shall cooperate with the income maintenance unit in supplying information with respect to the absent parent, the receipt of support, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity. This includes completing and signing documents determined to be necessary by the state’s attorney for any relevant judicial or administrative process.

e. In the circumstance as described at paragraph “b,” subparagraph (4), the income maintenance unit shall make the determination of whether or not the applicant or recipient has cooperated. In all other instances, the child support recovery unit shall make the determination of whether the applicant or recipient has cooperated. The child support recovery unit delegates the income maintenance unit to make this determination for applicants.

f. Failure to cooperate shall result in a sanction to the family. The sanction shall be a deduction of 25 percent from the net cash assistance grant amount payable to the family before any deduction for recoupment of a prior overpayment.

(1) When the income maintenance unit determines noncooperation, the sanction shall be implemented after the noncooperation has occurred. The sanction shall remain in effect until the client has expressed willingness to cooperate. However, any action to remove the sanction shall be delayed until cooperation has occurred.

(2) When the child support recovery unit (CSRU) makes the determination, the sanction shall be implemented upon notification from CSRU to the income maintenance unit that the client has failed to cooperate. The sanction shall remain in effect until the client has expressed to either income maintenance or CSRU staff willingness to cooperate. However, any action to remove the sanction shall be delayed until income maintenance is notified by CSRU that the client has cooperated.

41.22(7) Assignment of support payments. Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person that the applicant or recipient may have. The assignment of support payments shall include rights to support in the applicant’s or recipient’s own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance.

a. The assignment of support payments shall include rights to all support payments that accrue during the period of assistance but shall not exceed the total amount of assistance received.

b. An assignment is effective the same date all eligibility information is entered into the department’s computer system and is effective for the entire period for which assistance is paid.

41.22(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The income maintenance unit shall determine that cooperation is against the child’s best interest when the applicant’s or recipient’s cooperation in establishing paternity or securing support is reasonably anticipated to result in:

- (1) Physical harm to the child for whom support is to be sought; or
- (2) Emotional harm to the child for whom support is to be sought; or
- (3) Physical harm to the parent or caretaker relative with whom the child is living which reduces the person’s capacity to care for the child adequately; or
- (4) Emotional harm to the parent or caretaker relative with whom the child is living of a nature or degree that it reduces the person’s capacity to care for the child adequately.

b. The income maintenance unit shall determine that cooperation is against the child’s best interest when at least one of the following circumstances exists, and the income maintenance unit believes that

because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

- (1) The child for whom support is sought was conceived as a result of incest or forcible rape.
- (2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (3) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the caretaker relative, the following shall be considered:

- (1) The present emotional state of the individual subject to emotional harm.
- (2) The emotional health history of the individual subject to emotional harm.
- (3) Intensity and probable duration of the emotional impairment.
- (4) The degree of cooperation required.
- (5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

41.22(9) Claiming good cause. Each applicant for or recipient of the family investment program who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. Before requiring cooperation, the income maintenance unit shall notify the applicant or recipient using Form 470-0169, Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination.

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

- (1) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity and securing support.
- (2) Advise the applicant or recipient that by law cooperation in establishing paternity and securing support is a condition of eligibility for the family investment program.
- (3) Advise the applicant or recipient of the sanctions provided for refusal to cooperate without good cause.
- (4) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or recipient will be excused from the cooperation requirement.
- (5) Advise the applicant or recipient that upon request, or following a claim of good cause, the income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or recipient makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. To claim good cause, the applicant or recipient shall sign and date Form 470-0170 and return it to the income maintenance unit. This form:

- (1) Indicates that the applicant or recipient must provide corroborative evidence of a good cause circumstance and must, when requested, furnish sufficient information to permit the income maintenance unit to investigate the circumstances.
- (2) Informs the applicant or recipient that, upon request, the income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.
- (3) Informs the applicant or recipient that on the basis of the corroborative evidence supplied and the department's investigation when necessary, the income maintenance unit will determine whether cooperation would be against the best interest of the child for whom support would be sought.
- (4) Lists the circumstances under which cooperation may be determined to be against the best interests of the child.

(5) Informs the applicant or recipient that the child support recovery unit may review the income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or recipient that the child support recovery unit may attempt to establish paternity and collect support in those cases where the income maintenance unit determines that this can be done without risk to the applicant or recipient if done without the applicant's or recipient's participation.

d. The applicant or recipient who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the income maintenance unit to determine that good cause does not exist. The applicant or recipient shall:

(1) Specify the circumstances that the applicant or recipient believes provide sufficient good cause for not cooperating.

(2) Corroborate the good cause circumstances.

(3) When requested, provide sufficient information to permit an investigation.

41.22(10) *Determination of good cause.* The income maintenance unit shall determine whether good cause exists for each applicant for or recipient of the family investment program who claims to have good cause.

a. The applicant or recipient shall be notified by the income maintenance unit of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the income maintenance unit's findings and basis for determination.

(3) Be entered in the family investment program case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The income maintenance unit may exceed this time standard only when:

(1) The case record documents that the income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) The case record documents that the claimant did not provide corroborative evidence within the time period set forth in 41.22(11).

c. When the income maintenance unit determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in the imposition of sanctions.

d. The income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after the unit has examined the evidence and found that it actually verifies the good cause claim.

e. Before making a final determination of good cause for refusing to cooperate, the income maintenance unit shall:

(1) Afford the child support recovery unit the opportunity to review and comment on the findings and basis for the proposed determination, and

(2) Consider any recommendation from the child support recovery unit.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or recipient's appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or recipient has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The income maintenance unit shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements pertaining to cooperation in establishing paternity and securing support.

41.22(11) *Proof of good cause.* The applicant or recipient who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the income maintenance unit determines that the applicant or recipient requires additional time because of the difficulty in obtaining the corroborative evidence, the income maintenance unit shall allow a reasonable additional period upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence.

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative.

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the income maintenance unit shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed, and

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing corroborative evidence, the income maintenance unit shall:

(1) Advise the applicant or recipient how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or recipient's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The income maintenance unit will investigate the good cause claim when the unit believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation which is conducted satisfies the income maintenance unit that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by the worker's immediate supervisor and the findings will be recorded in the case record.

e. The income maintenance unit may further verify the good cause claim when the applicant's or recipient's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the income maintenance unit determines that it is necessary, the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the income maintenance unit will:

(1) Contact the absent parent or putative father from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.

(2) Prior to making the necessary contact, notify the applicant or recipient so the applicant or recipient may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

41.22(12) *Enforcement without caretaker's cooperation.* When the income maintenance unit makes a determination that good cause exists, the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or caretaker relative when the enforcement or collection activities do not involve the participation of the child or caretaker.

a. The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination, and the income maintenance unit shall consider any recommendation from the child support recovery unit.

b. The determination shall:

- (1) Be in writing,
- (2) Contain the income maintenance unit's findings and basis for determination, and
- (3) Be entered into the family investment program case record.

c. When the income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, the income maintenance unit will notify the applicant or recipient to enable the individual to withdraw the application for assistance or have the case closed.

41.22(13) *Furnishing of social security number.* As a condition of eligibility each applicant for or recipient of and all members of the eligible group must furnish a social security account number or proof of application for a number if it has not been issued or is not known and provide the number upon its receipt. The requirement shall not apply to a payee who is not a member of the eligible group.

a. Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicant or recipient has complied with the requirements of 41.22(13).

b. When the mother of the newborn child is a current recipient, the mother shall have until the second month following the mother's discharge from the hospital to apply for a social security account number for the child.

c. When the applicant is a battered alien, as described at 41.23(4), the applicant shall have until the month following the month the person receives employment authorization from the Immigration and Naturalization Service to apply for a social security account number.

41.22(14) *Department of workforce development registration and referral.* Rescinded IAB 11/1/00, effective 1/1/01.

41.22(15) *Requiring minor parents to live with parent or legal guardian.* A minor parent and the dependent child in the minor parent's care must live in the home of a parent or legal guardian of the minor parent in order to receive family investment program benefits unless good cause for not living with the parent or legal guardian is established.

a. "Living in the home" includes living in the same apartment, same half of a duplex, same condominium or same row house as the adult parent or legal guardian. It also includes living in an apartment which is located in the home of the adult parent or legal guardian.

b. For applicants, determination of whether the minor parent and child are living with a parent or legal guardian or have good cause must be made as of the date of the first application interview as described at 441—subrule 40.24(2).

(1) If, as of the date of this interview, the minor parent and child are living with a parent or legal guardian or are determined to have good cause, the FIP application for the minor parent and child shall be approved as early as seven days from receipt of the application provided they are otherwise eligible.

(2) If, as of the date of this interview, the minor parent and child are not living with a parent or legal guardian and do not have good cause, the FIP application for the minor parent and child shall be denied.

c. For recipients, when changes occur, continuing eligibility shall be redetermined according to 441—subrules 40.27(4) and 40.27(5).

d. A minor parent determined to have good cause for not living with a parent or legal guardian must attend FaDSS or other family development as required in 441—subrule 93.4(4).

41.22(16) *Good cause for not living in the home of a parent or legal guardian.* Good cause shall exist when at least one of the following conditions applies:

- a. The parents or legal guardian of the minor parent is deceased, missing or living in another state.
- b. The physical or emotional health or safety of the minor parent or child would be jeopardized if the minor parent is required to live with the parent or legal guardian.

(1) Physical or emotional harm shall be of a serious nature in order to justify a finding of good cause.

(2) Physical or emotional harm shall include situations of documented abuse or incest.

(3) When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the minor parent or child, the following shall be considered:

- 1. The present emotional state of the individual subject to emotional harm.
- 2. The emotional health history of the individual subject to emotional harm.
- 3. Intensity and probable duration of the emotional impairment.
- c. The minor parent is in a foster care supervised apartment living arrangement.
- d. The minor parent is participating in the job corps solo parent program.
- e. The parents or legal guardian refuses to allow the minor parent and child to return home and the minor parent is living with a specified relative, aged 21 or over, on the day of interview, and the caretaker is the applicant or payee.

f. The minor parent and child live in a maternity home or other licensed adult-supervised supportive living arrangement as defined by the department of human services.

g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of economic assistance, or the administrator's designee, for determination of good cause.

41.22(17) *Claiming good cause for not living in the home of a parent or legal guardian.* Each applicant or recipient who is not living with a parent or legal guardian shall have the opportunity to claim good cause for not living with a parent or legal guardian.

41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.* The department shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the department of its determination that good cause does or does not exist. The determination shall:

- (1) Be in writing.
- (2) Contain the department's findings and basis for determination.
- (3) Be entered in the family investment program case record.
- b. When the department determines that good cause does not exist:

- (1) The applicant or recipient shall be so notified.
- (2) The application shall be denied or family investment program assistance canceled.
- (3) Rescinded IAB 8/31/05, effective 11/1/05.

c. The department shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements.

41.22(19) *Proof of good cause for not living in the home of a parent or legal guardian.* The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4)“c.”

a. A good cause claim may be corroborated by one or more of the following types of evidence:

(1) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the parent or legal guardian might inflict physical or emotional harm on the minor parent or child.

(2) Medical records that indicate the emotional health history and present emotional health status of the minor parent or child; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the minor parent or child.

(3) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim. Written statements from the client's friends or relatives are not sufficient alone to grant good cause based on physical or emotional harm, but may be used to support other evidence.

(4) Notarized statements from the parents or legal guardian or other reliable evidence to verify that the parents or legal guardian refuse to allow the minor parent and child to return home.

(5) Court, criminal, child protective services, social services or other records which verify that the parents or legal guardian of the minor parent is deceased, missing or living in another state, or that the minor parent is in a foster care supervised apartment living arrangement, the job corps solo parent program, maternity home or other licensed adult-supervised supportive living arrangement.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the department wishes to request additional corroborative evidence which is needed to permit a good cause determination, the department shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed.

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing evidence, the department shall:

(1) Advise the applicant or recipient how to obtain the necessary documents.

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

This rule is intended to implement Iowa Code chapter 239B.

[ARC 8004B, IAB 7/29/09, effective 10/1/09]

441—41.23(239B) Home, residence, citizenship, and alienage.

41.23(1) *Iowa residence.*

a. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the caretaker is a resident.

b. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

41.23(2) *Suitability of home.* The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

41.23(3) *Absence from the home.*

a. An individual who is absent from the home shall not be included in the assistance unit, except as described in paragraph "b."

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home, notwithstanding the provisions of subrule 41.22(5). "Uniformed service" means the Army, Navy, Air Force, Marine Corps,

Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group, if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year will result in the individual's needs being removed from the grant.

(2) An individual is out of the home to secure education or training, as defined for children in 41.24(2)"e" and for adults in rule 441—93.8(239B), first sentence, as long as the caretaker relative retains supervision of the child.

(3) An individual is out of the home for reasons other than reasons in subparagraphs (1) and (2) and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual's needs being removed from the grant.

41.23(4) *Battered aliens.* A person who meets the conditions of eligibility under Iowa Code section 239B.2 and who meets either of the following requirements shall be eligible for participation in the family investment program:

a. The person is a conditional resident alien who was battered or subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, as described in 8 CFR Section 216.5(a)(3).

b. The person was battered or subjected to extreme cruelty, or the person's child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, and the person's petition has been approved or a petition is pending that sets forth a prima facie case that the person has noncitizen status under any of the following categories:

(1) Status as a spouse or child of a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(1)(A).

(2) Status as a spouse or child who was battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(iii), as codified in 8 United States Code Section 1154(a)(1)(A)(iii).

(3) Classification as a person lawfully admitted for permanent residence under the federal Immigration and Nationality Act.

(4) Suspension of deportation and adjustment of status under the federal Immigration and Nationality Act, Section 244(a), as in effect before the date of enactment of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(5) Cancellation of removal or adjustment of status under the federal Immigration and Nationality Act, Section 240A, as codified in 8 United States Code Section 1229b.

(6) Status as an asylee, if asylum is pending, under the federal Immigration and Nationality Act, Section 208, as codified in 8 United States Code Section 1158.

41.23(5) *Citizenship and alienage.*

a. Eligible status. A family investment program assistance grant may include the needs of a citizen or national of the United States or a qualified alien as defined at rule 441—40.21(239B).

(1) A person who is a qualified alien as defined at rule 441—40.21(239B) is not eligible for family investment program assistance for a five-year period beginning on the date of the person's entry into the United States with a qualified alien status.

(2) EXCEPTIONS: The five-year prohibition from family investment program assistance does not apply to:

1. A qualified alien residing in the United States before August 22, 1996.

2. A battered alien as described at subrule 41.23(4).

3. A qualified alien veteran who has an honorable discharge that is not due to alienage.

4. A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.

5. A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in numbered paragraph "3" or "4," including a surviving spouse who has not remarried.

6. A refugee admitted under Section 207 of the Immigration and Nationality Act (INA).
7. An alien granted asylum under Section 208 of the INA.
8. An alien admitted as an Amerasian as described in 8 U.S.C. Section 1612(a)(2)(A)(ii)(V).
9. A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).
10. An alien whose deportation is withheld under Section 243(h) or Section 241(b)(3) of the INA.
11. An alien certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.
12. An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. Attestation of status. As a condition of eligibility, an attestation of citizenship or alien status shall be made for all applicants and recipients on Form 470-0462 or 470-0462(S), Financial Support Application, or Form 470-2549, Statement of Citizenship Status. Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, may be used to attest to the citizenship of dependent children who enter a recipient household. Failure to sign a form attesting to citizenship when required to do so creates ineligibility for the entire eligible group. The attestation may be signed by:

- (1) The applicant;
- (2) Someone acting responsibly on the applicant's or recipient's behalf if the applicant or recipient is incompetent or incapacitated; or
- (3) Any adult member of the assistance unit, when eligibility is determined on a family or household basis.

This rule is intended to implement Iowa Code sections 239B.2 and 239B.2B.
[ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program. All persons in a family investment program (FIP) household shall be referred to the PROMISE JOBS program and shall enter into a family investment agreement (FIA) as a condition of receiving FIP, unless exempt from referral, except as described at subrule 41.24(2).

41.24(1) FIA-responsible persons. The following persons are FIA-responsible unless the department determines the person is exempt:

- a.* All persons whose needs are included in a grant under the FIP program.
- b.* Any parent living in the home of a child receiving a grant.
- c.* All FIP applicants unless the department determines that the applicant is exempt or does not meet other FIP eligibility requirements.
- d.* Applicants who have chosen and are in an active limited benefit plan (LBP). FIA-responsible applicants in an active limited benefit plan shall complete significant contact with or action in regard to PROMISE JOBS as described at paragraphs 41.24(8) "d" and "e" for FIP eligibility to be considered. For two-parent households, both parents must participate as previously stated except when one parent is exempt. Exceptions:

- (1) The applicant has become exempt from PROMISE JOBS.
- (2) The applicant is in a subsequent limited benefit plan and it is prior to the last day of the six-month period of ineligibility.

41.24(2) Exemptions. The following persons are exempt from referral:

- a.* and *b.* Rescinded IAB 12/3/97, effective 2/1/98.
- c.* A person who is under the age of 16 and is not a parent.
- d.* A person found eligible for supplemental security income (SSI) benefits based on disability or blindness.
- e.* A person who is aged 16 to 19, is not a parent, and attends an elementary, secondary or equivalent level of vocational or technical school full-time. For persons who lose exempt status for not

attending school, once the person has signed a family investment agreement, the person shall remain referred to PROMISE JOBS and subject to the terms of the agreement.

(1) A person shall be considered to be attending school full-time when enrolled or accepted in an elementary school, a secondary school, or the equivalent level of vocational or technical school or training leading to a certificate or diploma, and the school certifies the person's attendance as full-time. Enrollment in a correspondence school that gives instruction courses by mail is not an allowable program of study.

(2) A person shall also be considered to be in regular attendance in months when the person is not attending because of an official school or training program vacation, an illness, a convalescence, or a family emergency.

(3) A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

f. A person who is not a United States citizen and is not a qualified alien as defined in rule 441—40.21(239B).

41.24(3) *Parents aged 19 and under.*

a. Unless exempt as described at subrule 41.24(2), parents aged 18 or 19 are referred to PROMISE JOBS as follows:

(1) A parent aged 18 or 19 who has not successfully completed a high school education (or its equivalent) shall be required to participate in educational activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in other PROMISE JOBS options if the person fails to make good progress in completing educational activities or if it is determined that participation in educational activities is inappropriate for the parent.

(3) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

b. Unless exempt as described at subrule 41.24(2), parents aged 17 or younger are referred to PROMISE JOBS as follows:

(1) A parent aged 17 or younger who has not successfully completed a high school education or its equivalent shall be required to participate in high school completion activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

41.24(4) *Method of referral.* The department shall refer each FIA-responsible person as defined at subrule 41.24(1) to PROMISE JOBS to sign a family investment agreement.

a. FIA-responsible applicants. During the application interview, the department shall notify the applicant of the requirement to sign a family investment agreement as a condition of FIP eligibility. The department shall refer the applicant by scheduling the applicant for an appointment with the PROMISE JOBS provider agency to develop the family investment agreement.

(1) The appointment shall be on the earliest available date but no later than ten calendar days from the date of referral unless the applicant requests an appointment on a day that is beyond ten calendar days. The PROMISE JOBS provider agency shall make sufficient appointment times available to allow the applicant to be scheduled within this time frame.

(2) The applicant shall be notified verbally and in writing of the scheduled appointment. If the notice of a scheduled appointment is mailed to the applicant, the department shall allow at least five working days from the date the notice is mailed for the applicant to appear for the scheduled appointment. The department may allow less than five working days if the applicant is verbally notified and agrees to the appointment.

(3) If a parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance for the entire family.

(4) If a minor parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance for the minor parent and any child of the minor parent.

(5) If a referred person who is not a parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance only for that person.

b. Hardship applicants. While the eligibility decision is pending, unless the applicants are exempt from referral as defined in subrule 41.24(2), the department shall refer applicants who must qualify for a hardship exemption before approval of FIP to PROMISE JOBS to sign a family investment agreement as described in paragraph 41.24(4) “a” and shall treat applicants in accordance with subrule 41.30(3).

c. Applicants in a limited benefit plan. The department shall refer FIA-responsible applicants to PROMISE JOBS as described in paragraph 41.24(4) “a” and inform the applicant of the actions needed to reconsider and end the limited benefit plan as described at subrule 41.24(8). Failure to appear for the appointment without rescheduling or failure to sign a family investment agreement results in denial of the FIP application.

d. FIP participants who become FIA-responsible. When a person receiving FIP is no longer exempt, the department shall send the FIP participant a notice. The notice shall contain information about the requirement to sign a family investment agreement and shall instruct the FIP participant to contact PROMISE JOBS within ten calendar days to schedule an appointment with PROMISE JOBS to develop a family investment agreement. If the participant fails to schedule or attend the appointment or fails to sign a family investment agreement, PROMISE JOBS will send a clear written reminder. After one written reminder as described at 441—paragraph 93.3(3) “b,” the participant shall enter into a limited benefit plan as described at paragraph 41.24(8) “c.”

41.24(5) Changes in status and redetermination of exempt status. Any exempt person shall report any change affecting the exempt status to the department within ten days of the change. The department shall reevaluate exempt persons when changes in status occur and at the time of six-month or annual review. The participant and the PROMISE JOBS unit shall be notified of any change in a participant’s exempt status.

41.24(6) Volunteers. Rescinded IAB 7/21/04, effective 9/1/04.

41.24(7) Referral to vocational rehabilitation. The department shall make the department of education, division of vocational rehabilitation services, aware of any person who is referred to PROMISE JOBS and who has a medically determined physical or mental disability and a substantial employment limitation resulting from the disability. However, acceptance of vocational rehabilitation services by the client is optional.

41.24(8) The limited benefit plan (LBP). When a participant responsible for signing and meeting the terms of a family investment agreement as described at rule 441—93.4(239B) chooses not to sign or fulfill the terms of the agreement, the FIP assistance unit or the individual participant shall enter into a limited benefit plan. A limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to the participant as defined at 441—subrule 7.7(1). Once the limited benefit plan is imposed, FIP eligibility no longer exists as of the first of the month after the month in which timely and adequate notice is given to the participant. Upon the issuance of the notice to impose a limited benefit plan, the person who chose the limited benefit plan can reconsider and end the limited benefit plan, but only as described at paragraphs 41.24(8) “d” and “e.”

a. A limited benefit plan shall either be a first limited benefit plan or a subsequent limited benefit plan. From the effective date of a first limited benefit plan, the FIP eligible group or individual participant shall not be eligible until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph 41.24(8) “d.” If a subsequent limited benefit plan is chosen by the same participant, a six-month period of ineligibility applies to the FIP eligible group or individual participant and ineligibility continues after the six-month period is over until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph 41.24(8) “e.” A limited benefit plan imposed in error as described in paragraph 41.24(8) “g” shall not be considered a limited benefit plan and shall not count when determining whether a household is subject to a subsequent limited benefit plan.

b. The limited benefit plan shall be applied to participants responsible for the family investment agreement and other members of the participant's family as follows:

(1) When the participant responsible for the family investment agreement is a parent, the limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1).

(2) When the participant choosing a limited benefit plan is a needy specified relative or a dependent child's stepparent who is in the FIP eligible group because of incapacity, the limited benefit plan shall apply only to the individual participant choosing the plan. EXCEPTION: The limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1) when a needy specified relative who assumes the role of parent was responsible for the family investment agreement and chose a limited benefit plan effective October 1, 2005, or earlier.

(3) When the FIP eligible group includes a minor parent living with the minor parent's adult parent or needy specified relative who receives FIP benefits and both the minor parent and the adult parent or needy specified relative are responsible for developing a family investment agreement, each parent or needy specified relative is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

1. When the adult parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for FIP benefits as a minor parent living with self-supporting parents or as a minor parent living independently and continue in the family investment agreement process.

2. When the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

3. When the minor parent is the only eligible child in the adult parent's or needy specified relative's home and the minor parent chooses the limited benefit plan, the adult parent's or needy specified relative's FIP eligibility ceases in accordance with subrule 41.28(1). The adult parent or needy specified relative shall become ineligible beginning with the effective date of the minor parent's limited benefit plan.

4. When the needy specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply as described at subparagraph 41.24(8) "b"(2).

(4) When the FIP eligible group includes children who are FIA-responsible, the children shall not have a separate family investment agreement but shall be asked to sign the eligible group's family investment agreement and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

1. When the parent or needy specified relative responsible for a family investment agreement meets those responsibilities but a child who is FIA-responsible chooses an individual limited benefit plan, the limited benefit plan shall apply only to the individual child choosing the plan.

2. When the child who chooses a limited benefit plan under numbered paragraph 41.24(8) "b"(4) "1" is the only child in the eligible group, the parents' or needy specified relative's eligibility ceases in accordance with subrule 41.28(1). The parents or needy specified relative shall become ineligible beginning with the effective date of the child's limited benefit plan.

(5) When the FIP eligible group includes parents or needy specified relatives who are exempt from PROMISE JOBS participation and children who are FIA-responsible, the children are responsible for completing a family investment agreement. If a child who is FIA-responsible chooses the limited benefit plan, the limited benefit plan shall be applied in the manner described in subparagraph 41.24(8) "b"(4).

(6) When both parents of a FIP child are in the home, a limited benefit plan shall be applied as follows:

1. When only one parent of a child in the eligible group is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan applies to the entire family and cannot be ended by the voluntary participation in a family investment agreement by the exempt parent.

2. When both parents of a child in the eligible group are responsible for a family investment agreement, both are expected to sign the agreement. If either parent chooses the limited benefit plan,

the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement.

3. When the parents from a two-parent family in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

4. A subsequent limited benefit plan applies when either parent in a two-parent family previously chose a limited benefit plan.

c. A participant shall be considered to have chosen a limited benefit plan under any of the following circumstances:

(1) A participant who loses exempt status and is referred to PROMISE JOBS as described at paragraph 41.24(4)“d” and who does not schedule or attend an appointment for orientation and development of a family investment agreement with PROMISE JOBS after PROMISE JOBS sends one clear written reminder as described at 441—paragraph 93.3(3)“b” shall enter into the limited benefit plan.

(2) A participant who chooses not to sign the family investment agreement shall enter into the limited benefit plan. For an applicant, signing a family investment agreement is a FIP eligibility requirement. If an applicant chooses not to sign the agreement, the limited benefit plan process is not applicable.

(3) A participant who signs a family investment agreement but does not carry out the family investment agreement responsibilities shall enter into a limited benefit plan whether the person signed the agreement as a FIP applicant or as a FIP participant. This includes a participant who fails to respond to the PROMISE JOBS worker’s request to renegotiate the family investment agreement when the participant has not attained self-sufficiency by the date established in the family investment agreement. A limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the family investment agreement.

d. Reconsideration of a first limited benefit plan. A person who chooses a first limited benefit plan may reconsider at any time from the date timely and adequate notice is issued establishing the limited benefit plan. To reconsider and end the limited benefit plan, the person must communicate the desire to engage in PROMISE JOBS activities to the department or appropriate PROMISE JOBS office and develop and sign the family investment agreement.

(1) Since a first limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued, the person who chose the limited benefit plan cannot end it by complying with the issue that resulted in its imposition. To end the limited benefit plan, the person must also sign a family investment agreement, even if the person had signed an agreement before choosing the limited benefit plan.

(2) FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later. FIP benefits may be reinstated in accordance with 441—subrule 40.22(5) when the family investment agreement is signed before the effective date of a first limited benefit plan.

e. Reconsideration of a subsequent limited benefit plan. A person who chooses a subsequent limited benefit plan may reconsider that choice at any time following the required six-month period of ineligibility.

(1) A subsequent limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to establish the limited benefit plan. Therefore, once timely and adequate notice is issued, the person who chose the limited benefit plan cannot end it by complying with the issue that resulted in its imposition.

(2) FIP eligibility no longer exists as of the effective date of the limited benefit plan. Eligibility cannot be reestablished until the six-month period of ineligibility has expired. FIP eligibility does not exist for a person who reapplies for FIP after the notice is issued and before the effective date of the limited benefit plan because the person is not eligible to sign a family investment agreement until the six-month period of ineligibility has expired.

(3) To reconsider and end the limited benefit plan, the person must:

1. Contact the department or the appropriate PROMISE JOBS office to communicate the desire to engage in PROMISE JOBS activities,

2. Sign a new or updated family investment agreement, and

3. Satisfactorily complete 20 hours of employment or the equivalent in an activity other than work experience or unpaid community service, unless problems as described at rule 441—93.14(239B) or barriers as described at 441—subrule 93.4(5) apply. The 20 hours of employment or other activity must be completed within 30 days of the date that the family investment agreement is signed, unless problems as described at rule 441—93.14(239B) or barriers as described at 441—subrule 93.4(5) apply.

- (4) FIP benefits shall not begin until the person who chose the limited benefit plan completes the previously defined significant actions. FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later, but in no case shall the effective date be within the six-month period of ineligibility.

- f. Reconsideration by two-parent family. For a two-parent family when both parents are responsible for a family investment agreement as described at subrule 41.24(1), a first or subsequent limited benefit plan continues until both parents have completed significant contact or action with the PROMISE JOBS program as described in paragraphs “d” and “e” above.

- g. Limited benefit plan imposed in error. A limited benefit plan imposed in error shall not be considered a limited benefit plan. This includes any instance when participation in PROMISE JOBS should not have been required as described in the administrative rules. Examples of instances when an error has occurred are:

- (1) The person was exempt from PROMISE JOBS participation at the time the person chose the limited benefit plan.

- (2) It is verified that the person considered to have chosen the limited benefit plan moved out of state or requested cancellation of FIP prior to the date that PROMISE JOBS determined the limited benefit plan was chosen.

- (3) The final appeal decision under 441—Chapter 7 reverses the decision to impose a limited benefit plan.

- (4) It is determined that the entire amount of assistance issued for the person who chose the limited benefit plan is subject to recoupment for the month when the person chose not to fulfill the terms of the family investment agreement.

- (5) The person informs PROMISE JOBS of a newly revealed problem as described at rule 441—93.14(239B) or barrier as described at 441—subrule 93.4(5) after the limited benefit plan is imposed, and it is reasonable that the problem or barrier contributed to a failure that resulted in imposition of the limited benefit plan. The person may be required to provide documentation of the problem or barrier as described at 441—subrule 93.10(3).

41.24(9) *Nonparticipation by volunteer participants.* Rescinded IAB 7/21/04, effective 9/1/04.

41.24(10) *Notification of services.*

- a. The department shall inform all applicants for and recipients of FIP of the advantages of employment under FIP.

- b. The department shall provide a full explanation of the family rights, responsibilities, and obligations under PROMISE JOBS and the FIA, with information on the time-limited nature of the agreement.

- c. The department shall provide information on the employment, education and training opportunities, and support services to which they are entitled under PROMISE JOBS, as well as the obligations of the department. This information shall include explanations of child care assistance and transitional Medicaid.

- d. The department shall inform applicants for and recipients of FIP benefits of the grounds for exemption from FIA responsibility and from participation in the PROMISE JOBS program.

- e. The department shall explain the LBP and the process by which FIA-responsible persons can choose the LBP.

- f. The department shall inform all applicants for and recipients of FIP of their responsibility to cooperate in establishing paternity and enforcing child support obligations.

g. The department shall inform applicants for FIP benefits that a family investment agreement must be signed before FIP approval as a condition of eligibility, except as described at subrule 41.24(2). [ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1146C, IAB 10/30/13, effective 1/1/14; ARC 1208C, IAB 12/11/13, effective 2/1/14; ARC 2272C, IAB 12/9/15, effective 2/1/16]

441—41.25(239B) Uncategorized factors of eligibility.

41.25(1) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

41.25(2) *Duplication of assistance.* A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care or state-funded foster care.

a. A recipient shall not concurrently receive the family investment program and subsidized adoption unless exclusion of the person from the FIP grant will reduce benefits to the family.

b. When a family investment program recipient is approved for foster care or subsidized adoption assistance while remaining in the same home, family investment program assistance shall be canceled effective the first day of the next calendar month following the date approval of the foster care or subsidized adoption payment is successfully entered into the department's computer system. FIP assistance for the month for which the foster care or subsidized adoption payment is approved or any past months for which foster care or subsidized adoption payments are made retroactively shall not be subject to recoupment.

c. A recipient shall not concurrently receive a grant from a public assistance program in another state.

d. When a recipient leaves the home of a specified relative, no payment for a concurrent period shall be made for the same recipient in the home of another relative.

41.25(3) *Aid from other funds.* Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

41.25(4) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive the family investment program when the other party, obligated to provide the support, is able to fulfill that part of the contract.

41.25(5) *Participation in a strike.*

a. The family of any parent with whom the child(ren) is living shall be ineligible for the family investment program for any month in which the parent is participating in a strike on the last day of the month.

b. Any individual shall be ineligible for the family investment program for any month in which the individual is participating in a strike on the last day of that month.

c. Definitions:

(1) A strike is a concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(2) An individual is not participating in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The district administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

41.25(6) *Graduate students.* The entire assistance unit is ineligible for FIP when a member of the assistance unit is enrolled in an educational program leading to a degree beyond a bachelor's degree.

41.25(7) *Time limit for receiving assistance.* Rescinded IAB 7/11/01, effective 9/1/01.

41.25(8) *School attendance requirements.* Rescinded IAB 7/7/04, effective 7/1/04.

41.25(9) *Pilot diversion programs.* Assistance shall not be approved when an assistance unit is subject to a period of ineligibility as described at 441—Chapter 47.

41.25(10) *Fugitive felons, and probation and parole violators.* Assistance shall be denied to a person who is (1) convicted of a felony under state or federal law and is fleeing to avoid prosecution, custody or confinement, or (2) violating a condition of probation or parole imposed under state or federal law. The prohibition does not apply to conduct pardoned by the President of the United States, beginning with the month after the pardon is given.

41.25(11) *Access to benefits.*

a. A recipient shall not use the recipient's electronic access card issued pursuant to 441—subrule 45.21(1) to access benefits at any of the following prohibited locations as defined by federal statute or regulation applicable to this prohibition:

- (1) A liquor store,
- (2) A casino, gambling casino or gaming establishment, or
- (3) A retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

b. When the department receives a detailed complaint or suspects that a recipient has used the recipient's electronic access card at a prohibited location, the case shall be referred to the department of inspections and appeals for further investigation.

c. When the department of inspections and appeals finds that a recipient has used the recipient's electronic access card at a prohibited location, the household that includes the recipient is:

- (1) Considered to have committed a fraudulent act;
- (2) Liable for any amounts accessed at a prohibited location and required to repay such amount in accordance with 441—Chapter 46;
- (3) Ineligible for FIP for a three-month period after the first report by the department of inspections and appeals which includes a finding of misuse;
- (4) Ineligible for FIP for a six-month period after each subsequent report by the department of inspections and appeals which includes a finding of misuse.

d. When parents from a two-parent family separate during an ineligibility period, if:

- (1) The department of inspections and appeals investigation identifies the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow that recipient.
- (2) The department of inspections and appeals investigation does not identify the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow the recipient who is the case name when the violation occurred.

e. A new period of ineligibility shall be established when:

- (1) A recipient files an appeal either:
 1. Before the effective date of the intended action on the notice of decision or notice of action establishing the beginning date of the ineligibility period, or
 2. Within ten days from the date on which a notice establishing the beginning date of the ineligibility period is received. The date on which notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period;
- (2) Assistance is continued pending the final decision of the appeal; and
- (3) The department's action is affirmed.

Assistance issued pending the final decision of an appeal is not subject to recovery pursuant to 441—subrule 7.9(6).

This rule is intended to implement Iowa Code chapter 239B.

[ARC 1207C, IAB 12/11/13, effective 2/1/14; ARC 1478C, IAB 6/11/14, effective 8/1/14; ARC 1694C, IAB 10/29/14, effective 1/1/15]

441—41.26(239B) Resources.

41.26(1) Limitation. An applicant or recipient may have the following resources and be eligible for the family investment program. Any resource not specifically exempted shall be counted toward resource limitations.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at 41.26(1) “*n*” or “*o*” and 41.26(6) “*d*,” the net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one’s home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

d. Motor vehicles.

(1) One motor vehicle without regard to its value.

(2) An equity not to exceed a value of \$4115 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in 41.26(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of \$4115 of any vehicle shall be counted toward the resource limit in 41.26(1) “*e*.” When a motor vehicle is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle.

The department shall annually increase the motor vehicle equity value to be disregarded by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

e. A reserve of other property, real or personal, not to exceed \$2000 for applicant assistance units and \$5000 for recipient assistance units. EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the \$5000 limit. The exception includes those persons who did not receive an assistance grant due to the limitations described at rules 441—45.26(239B) and 45.27(239B) and persons whose grants were suspended as in 41.27(9) “*f*” in the month prior to the month of application.

Resources of the applicant or the recipient shall be determined in accordance with subrule 41.26(2).

f. Money which is counted as income in a month, during that same month; and that part of lump sum income defined in 41.27(9) “*c*”(2) reserved for the current or future month’s income.

g. Payments which are exempted for consideration as income and resources under subrule 41.27(6).

h. An equity not to exceed \$1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of \$1,500 shall be counted toward resource limitations unless it is established that the funeral contract or burial trust is irrevocable.

i. One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

j. Settlements for payment of medical expenses.

k. Life estates.

l. Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

m. The balance in an individual development account (IDA), including interest earned on the IDA.

n. An equity not to exceed \$10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in computing whether the eligible group's property is within the reserve defined in paragraph "e."

o. Nonhomestead property that produces income consistent with the property's fair market value.

41.26(2) *Persons considered.*

a. Resources of persons in the eligible group shall be considered in establishing property limitations.

b. Resources of the parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group shall be considered in the same manner as if the parent were included in the eligible group.

c. Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

d. The resources of supplemental security income recipients shall not be counted in establishing property limitations.

e. The resources of a nonparental relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

f. and *g.* Rescinded IAB 10/4/00, effective 12/1/00.

41.26(3) *Homestead defined.* The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½-acre in area. When outside a city plat it shall not contain, in the aggregate, more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 41.26(5).

41.26(4) *Liquidation.* When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

b. Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 41.27(1) "*f*" and 41.27(7) "*ah*." The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

41.26(5) *Net market value defined.* Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

41.26(6) *Availability.*

a. A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant/recipient owns the property in part or in full and has control over it; that is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

b. Rescinded IAB 6/30/99, effective 9/1/99.

c. When property is owned by more than one person, unless otherwise established, it is assumed that all individuals hold equal shares in the property.

d. When the applicant or recipient owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

41.26(7) *Damage judgments and insurance settlements.*

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant/recipient the month following the month the payment was received. When the applicant/recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

41.26(8) *Trusts.* The department shall determine whether assets from a trust or conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the trust agreement or order establishing a conservatorship.

a. Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

b. When the department questions whether the funds in a trust or conservatorship are available, the trust or conservatorship shall be referred to the central office.

(1) When assets in the trust or conservatorship are not clearly available, central office staff may contact the trustee or conservator and request that the funds in the trust or conservatorship be made available for current support and maintenance. When the trustee or conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(2) Funds in a trust or conservatorship that are not clearly available shall be considered unavailable until the trustee, conservator or court actually makes the funds available. Payments received from the trust or conservatorship for basic or special needs are considered income.

41.26(9) *Aliens sponsored by individuals.* When an alien admitted for lawful permanent residence is sponsored by a person who executed an enforceable affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the resources of the alien shall be deemed to include the resources of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount of the resources of the sponsor and the sponsor's spouse deemed to the alien shall be the total countable resources as described in rule 441—41.26(239B) remaining after a \$1,500 deduction is subtracted. The following are exceptions to deeming of a sponsor's resources:

a. Deeming of the sponsor's resources does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at rule 441—40.21(239B); or

(3) The sponsored alien or the sponsor dies.

b. An indigent alien is exempt from the deeming of a sponsor's resources for 12 months after indigence is determined. An alien shall be considered indigent if:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's resources for 12 months.

41.26(10) *Not considered a resource.* Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint and seed. Capital assets are those assets which, if sold

at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, and inventory or supplies retained by the household shall not be considered a resource.

This rule is intended to implement Iowa Code section 239B.5.

[ARC 9439B, IAB 4/6/11, effective 6/1/11]

441—41.27(239B) Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant.

1. The determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income, exclusive of the family investment program grant, received by the eligible group and available to meet the current month's needs is no more than 185 percent of the standard of need for the eligible group; (2) the countable net unearned and earned income is less than the standard of need for the eligible group; and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the payment standard for the eligible group.

2. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the standard of need for the eligible group; and (2) countable net unearned and earned income is less than the payment standard for the eligible group.

3. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1)“h”(2) shall be considered as exempt income for the purpose of determining continuing eligibility, including child support as specified in paragraph 41.27(7)“q.” Deductions and diversions shall be allowed when verification is provided.

41.27(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. Social security income is the amount of the entitlement before withholding of a Medicare premium.

b. Rescinded, effective December 1, 1986.

c. Rescinded, effective September 1, 1980.

d. Rescinded IAB 2/11/98, effective 2/1/98.

e. Rescinded IAB 2/11/98, effective 2/1/98.

f. When the applicant or recipient sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined in 41.26(4). The interest portion of the payment is considered a resource the month following the month of receipt.

g. Every person in the eligible group and any parent living in the home of a child in the eligible group shall take all steps necessary to apply for and, if entitled, accept any financial benefit for which that person may be qualified, even though the benefit may be reduced because of the laws governing a particular benefit. When the person claims a physical or mental disability that is expected to last continuously for 12 months from the time of the claim or to result in death and the person is unable to engage in substantial activity due to the disability, or the person otherwise appears eligible, as the person is aged 65 or older or is blind, the person shall apply for social security benefits and supplemental security income benefits.

(1) Except as described in subparagraph (2), the needs of any person who refuses to take all steps necessary to apply for and, if eligible, to accept other financial benefits shall be removed from the eligible group. The person remains eligible for the work incentive disregard described in paragraph 41.27(2) “c.”

(2) The entire assistance unit is ineligible for FIP when a person refuses to apply for or, if entitled, to accept social security or supplemental security income. For applicants, this subparagraph applies to those who apply on or after July 1, 2002. For FIP recipients, this subparagraph applies at the time of the next six-month or annual review as described at 441—subrule 40.27(1) or when the recipient reports a change that may qualify a person in the eligible group or a parent living in the home for these benefits, whichever occurs earlier.

h. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance grant(s). Any cash support payment for a member of the eligible group, except as described at 41.27(7) “p” and “q,” received by the recipient after the date of decision as defined in 441—subrule 40.24(4) shall be refunded to the child support recovery unit.

(2) Assigned support collected in a month and retained by child support recovery shall be exempt as income for determining prospective or retrospective eligibility. Participants shall have the option of withdrawing from FIP at any time and receiving their child support direct.

(3) and (4) Rescinded IAB 12/3/97, effective 2/1/98.

i. The applicant or recipient shall cooperate in supplying verification of all unearned income, as defined at rule 441—40.21(239B). When the information is available, the department shall verify job insurance benefits by using information supplied to the department by the department of workforce development. When the department uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form 470-0485(C) or 470-0486(M), applicable to the payment month, whichever is later, in order to receive a payment adjustment.

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. Earned income deduction. Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, is considered in determining eligibility and the amount of the assistance grant is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include all work-related expenses other than child care. These expenses shall include, but not be limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. Rescinded IAB 12/29/99, effective 3/1/00.

c. Work incentive disregard. After deducting the allowable work-related expenses as defined in paragraph 41.27(2) “a” and income diversions as defined in subrules 41.27(4) and 41.27(8), the department shall disregard 58 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each person whose income must be considered in determining eligibility and the amount of the assistance grant.

(1) The work incentive disregard is not time-limited.

(2) Initial eligibility is determined without the application of the work incentive disregard as described at subparagraphs 41.27(9) “a”(2) and (3).

d. Self-employment. A person is considered self-employed when the person:

- (1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.
- (2) Establishes the person's own working hours, territory, and methods of work.
- (3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

e. Self-employment income. Earned income from self-employment as defined in paragraph 41.27(2) "d" means the net profit from self-employment. "Net profit" means gross self-employment income less:

- (1) Forty percent of the gross income to cover the costs of producing the income, or
- (2) At the request of the applicant or recipient, actual expenses determined in the manner specified in paragraph 41.27(2) "f."

f. Deduction of self-employment expenses. When the applicant or recipient requests that actual expenses be deducted, the net profit from self-employment income shall be determined by deducting only the following expenses that are directly related to the production of the income:

- (1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.
- (2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.
- (3) The cost of shelter in the form of rent; the interest on mortgage or contract payments; taxes; and utilities.
- (4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.
- (5) Insurance on the real or personal property involved.
- (6) The cost of any repairs needed.
- (7) The cost of any travel required.
- (8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

g. Child care income. Gross income from providing child care in the applicant's or recipient's own home shall include the total payment(s) received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

h. Income verification. The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—40.21(239B). A self-employed individual shall keep any records necessary to establish eligibility.

41.27(3) Shared living arrangements. When a family investment program parent shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the family investment program eligible group, exclusively for their needs, are considered income.

41.27(4) Diversion of income.

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the ineligible child(ren) of the parent living in the family group who meets the age and school attendance requirements specified in subrule 41.21(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible child(ren) of the parent and a companion in the home only when the income and resources of the companion and the child(ren) are within family investment program standards. The maximum income that shall be diverted to meet the needs of the ineligible child(ren) shall be the difference between the needs of the eligible group if the ineligible child(ren) were included and the needs of the eligible group with the child(ren) excluded, except as specified in 41.27(8) "a"(2) and 41.27(8) "b."

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

41.27(5) *Income of unmarried specified relatives under age 19.* Treatment of the income of an unmarried specified relative under the age of 19 is determined by whether the specified relative lives with a parent who receives FIP assistance, lives with a nonparental relative, lives in an independent living arrangement, or lives with a self-supporting parent, as follows.

a. Living with a parent on FIP, with a nonparental relative, or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the grant of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the grant of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Living with a self-supporting parent. The income of an unmarried specified relative under the age of 19 who is living in the same home as one or both of the person's self-supporting parents shall be treated in accordance with subparagraphs (1), (2), and (4) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parent(s) shall be treated in accordance with 41.27(8) "c."

(3) Rescinded IAB 4/3/91, effective 3/14/91.

(4) When the unmarried specified relative is age 18, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority.

41.27(6) *Exempt as income and resources.* The following shall be exempt as income and resources:

a. Food reserves from home-produced garden products, orchards, domestic animals, and the like, when utilized by the household for its own consumption.

b. The value of the food assistance program benefit.

c. The value of the United States Department of Agriculture donated foods (surplus commodities).

d. The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

e. Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

f. Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

g. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

h. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

i. Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

j. Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

k. Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

- l.* Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.
- m.* The income of a supplemental security income recipient.
- n.* Income of an ineligible child.
- o.* Income in-kind.
- p.* Family support subsidy program payments.
- q.* Grants obtained and used under conditions that preclude their use for current living costs.
- r.* All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 41.22(3), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.
 - s.* Rescinded IAB 2/11/98, effective 2/1/98.
 - t.* Any income restricted by law or regulation which is paid to a representative payee, living outside the home, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.
 - u.* The first \$50 received and retained by an applicant or recipient which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed \$50 per month per eligible group.
 - v.* Bona fide loans. Evidence of a bona fide loan may include any of the following:
 - (1) The loan is obtained from an institution or person engaged in the business of making loans.
 - (2) There is a written agreement to repay the money within a specified time.
 - (3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is a borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.
 - w.* Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
 - x.* The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.
 - y.* Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.
 - z.* Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."
 - aa.* Payments received from the Radiation Exposure Compensation Act.
 - ab.* Deposits into an individual development account (IDA) when determining eligibility and benefit amount. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. The deposit shall be deducted from nonexempt earned and unearned income that the client receives in the same budget month in which the deposit is made. To allow a deduction, verification of the deposit shall be provided by the end of the report month or the extended filing date, whichever is later. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions in 41.27(2) "a" and "c" shall be applied to nonexempt earnings from employment or net profit from self-employment that remain after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.
 - ac.* Assigned support collected in a month and retained by child support recovery as described in subparagraph 41.27(1) "h" (2).

41.27(7) Exempt as income. The following are exempt as income.

- a. Reimbursements from a third party.
- b. Reimbursement from the employer for job-related expenses.
- c. The following nonrecurring lump sum payments:
 - (1) Income tax refund.
 - (2) Retroactive supplemental security income benefits.
 - (3) Settlements for the payment of medical expenses.
 - (4) Refunds of security deposits on rental property or utilities.
 - (5) That part of a lump sum received and expended for funeral and burial expenses.
 - (6) That part of a lump sum both received and expended for the repair or replacement of resources.
- d. Payments received by the family providing foster care to a child or children when the family is operating a licensed foster home.
- e. Rescinded IAB 5/1/91, effective 7/1/91.
- f. A small monetary nonrecurring gift, such as a Christmas, birthday or graduation gift, not to exceed \$30 per person per calendar quarter.

When a monetary gift from any one source is in excess of \$30, the total gift is countable as unearned income. When monetary gifts from several sources are each \$30 or less, and the total of all gifts exceeds \$30, only the amount in excess of \$30 is countable as unearned income.

- g. Federal or state earned income tax credit.
- h. Supplementation from county funds providing:
 - (1) The assistance does not duplicate any of the basic needs as recognized by the family investment program, or
 - (2) The assistance, if a duplication of any of the basic needs, is made on an emergency basis, not as ongoing supplementation.
- i. Any payment received as a result of an urban renewal or low-cost housing project from any governmental agency.
- j. A retroactive corrective payment.
- k. The training allowance issued by the division of vocational rehabilitation, department of education.
- l. Payments from the PROMISE JOBS program.
- m. Rescinded, effective July 1, 1989.
- n. The training allowance issued by the department for the blind.
- o. Payment(s) from a passenger(s) in a car pool.
- p. Support refunded by the child support recovery unit for the first month of termination of eligibility and the family does not receive the family investment program.
- q. Rescinded IAB 11/8/06, effective 1/1/07.
- r. Rescinded IAB 11/8/06, effective 1/1/07.
- s. Income of a nonparental relative as defined in 41.22(3) except when the relative is included in the eligible group.
- t. Rescinded IAB 11/8/06, effective 1/1/07.
- u. Rescinded IAB 9/11/96, effective 11/1/96.
- v. Compensation in lieu of wages received by a child funded through an employment and training program of the U.S. Department of Labor.
- w. Any amount for training expenses included in a payment funded through an employment and training program of the U.S. Department of Labor.
- x. Rescinded, effective July 1, 1986.
- y. Earnings of an applicant or recipient aged 19 or younger who is a full-time student as defined in 41.24(2)“e.” The exemption applies through the entire month of the person’s twentieth birthday.

EXCEPTION: When the twentieth birthday falls on the first day of the month, the exemption stops on the first day of that month.

- z. Income attributed to an unmarried, underage parent in accordance with 41.27(8)“c” effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or

reaches majority through marriage. When the unmarried, underage parent turns age 18 on the first day of a month, the income of the self-supporting parent(s) becomes exempt as of the first day of that month.

aa. Rescinded IAB 12/3/97, effective 2/1/98.

ab. Incentive payments received from participation in the adolescent pregnancy prevention programs.

ac. Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.

ad. Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.

ae. Interest and dividend income.

af. Rescinded IAB 12/3/97, effective 2/1/98.

ag. Rescinded IAB 11/8/06, effective 1/1/07.

ah. Welfare reform and regular household honorarium income. All moneys paid to a FIP household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

ai. Diversion or self-sufficiency grants assistance as described at 441—Chapter 47.

aj. Payments from property sold under an installment contract as specified in paragraphs 41.26(4) “b” and 41.27(1) “f.”

ak. All census earnings received by temporary workers from the Bureau of the Census.

41.27(8) *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

a. Treatment of income in excluded parent cases.

(1) A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the earned income deduction described at paragraph 41.27(2) “a,” the work incentive disregard described at paragraph 41.27(2) “c,” and diversions described at subrule 41.27(4).

(2) The excluded parent shall be permitted to retain that part of the parent’s income to meet the parent’s needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at subrule 41.27(11).

(3) All remaining income of the excluded parent shall be applied against the needs of the eligible group.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) to (10) below.

(1) The stepparent’s monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) Rescinded IAB 6/30/99, effective 7/1/99.

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at 41.27(11), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.27(8) “b”(1) to (4) above shall be used to meet the needs of the stepparent and the stepparent’s dependents living in the home, when the dependents’ needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the family investment program standard of need for a family group of the same composition.

(6) The stepparent shall be allowed the work incentive disregard described at paragraph 41.27(2)“c” from monthly earnings. The disregard shall be applied to earnings that remain after all other deductions in subparagraphs 41.27(8)“b”(1) through (5) have been subtracted from the earnings. However, the work incentive disregard is not allowed when determining initial eligibility as described at subparagraphs 41.27(9)“a”(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) will first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the month received. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent’s dependents living in the home who are not eligible for FIP, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any child(ren) of the parent living in the home who is not eligible for FIP shall be considered as one unit, and the stepparent and the stepparent’s dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent’s own self-supporting parent(s), the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to 41.27(8)“b”(1) to (7). Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with 41.27(8)“b”(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to 41.27(8)“b”(1) to (7). Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with 41.27(8)“b”(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit; the self-supporting spouse and the spouse’s ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

41.27(9) Budgeting process. Both initial and ongoing eligibility and benefits shall be determined using a projection of income based on the best estimate of future income.

a. Initial eligibility.

(1) At time of application, all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for the family investment program, except income which is exempt. All countable earned and unearned income received by the eligible group during the 30 days before the interview shall be used to project future income. If the applicant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

When income is prorated in accordance with 41.27(9)“c”(1) and 41.27(9)“i,” the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185

percent test defined in rule 441—41.27(239B). The determination of eligibility in the month of decision is a three-step process as described in rule 441—41.27(239B).

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other month after assistance is approved, exceeds 185 percent of the standard of need for the eligible group, the application shall be rejected or the assistance grant canceled. Countable gross income means nonexempt gross income, as defined in rule 441—41.27(239B), without application of any disregards, deductions, or diversions. When the countable gross nonexempt earned and unearned income in the month of decision equals or is less than 185 percent of the standard of need for the eligible group, initial eligibility under the standard of need shall then be determined. Initial eligibility under the standard of need is determined without application of the work incentive disregard as specified in paragraph 41.27(2)“c.” All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the standard of need for the eligible group. When countable net earned and unearned income in the month of decision equals or exceeds the standard of need for the eligible group, the application shall be denied.

(3) When the countable net income in the month of decision is less than the standard of need for the eligible group, the work incentive disregard described in paragraph 41.27(2)“c” shall be applied when there is eligibility for this disregard. When countable net earned and unearned income in the month of decision, after application of the work incentive disregard and all other appropriate exemptions, deductions, and diversions, equals or exceeds the payment standard for the eligible group, the application shall be denied.

When the countable net income in the month of decision is less than the payment standard for the eligible group, the eligible group meets income requirements. The amount of the family investment program grant shall be determined by subtracting countable net income in the month of decision from the payment standard for the eligible group, except as specified in subparagraph 41.27(9)“a”(4).

(4) Eligibility for the family investment program for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of decision, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. When the applicant is eligible for some, but not all, months of the application period due to the time limit described at subrule 41.30(1), family investment program eligibility shall be determined for the month of decision first, then the immediately preceding month, and so on until the time limit has been reached.

(5) Rescinded IAB 11/8/06, effective 1/1/07.

(6) Rescinded IAB 11/8/06, effective 1/1/07.

(7) Rescinded IAB 7/4/07, effective 8/1/07.

b. Ongoing eligibility.

(1) The department shall prospectively compute eligibility and benefits when review information is submitted as described in 441—subrule 40.27(3). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(2) When a change in eligibility factors occurs, the department shall prospectively compute eligibility and benefits based on the change, effective no later than the month following the month the change occurred.

(3) Rescinded IAB 11/8/06, effective 1/1/07.

(4) The earned income deduction for each wage earner as defined in paragraph 41.27(2)“a” and the work incentive disregard as defined in paragraph 41.27(2)“c” shall be allowed.

c. Lump-sum income.

(1) Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be considered as income in the month received. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at

periodic intervals or intermittently shall be considered as income in the month received, except periodic or intermittent income from self-employment shall be treated as described in 41.27(9) "i." When the income that is subject to proration is earned, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income that is subject to proration is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or at any time during the receipt of assistance.

(2) Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 41.26(4), 41.26(7), 41.27(8) "b," and 41.27(8) "c," shall be treated in accordance with this rule. Nonrecurring lump-sum income shall be considered as income in the month received and counted in computing eligibility and the amount of the grant, unless the income is exempt. Nonrecurring lump-sum unearned income is defined as a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. When countable income, exclusive of the family investment program grant but including countable lump-sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. In addition, the eligible group shall be ineligible for the number of full months derived by dividing the income by the standard of need for the eligible group. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter. The period of ineligibility shall begin with the month the lump sum is received.

When a nonrecurring lump sum is timely reported as required by 441—paragraph 40.27(4) "f," recoupment shall not be made for the month of receipt. When a nonrecurring lump sum is timely reported, but the timely notice as required by rule 441—7.7(17A) requires the action be delayed until the second calendar month following the month of change, recoupment shall not be made for the first calendar month following the month of change. When a nonrecurring lump sum is not timely reported, recoupment shall be made beginning with the month of receipt.

The period of ineligibility shall be shortened when the schedule of living costs as defined in 41.28(2) increases.

The period of ineligibility shall be shortened by the amount that is no longer available to the eligible group due to a loss or a theft or because the person controlling the lump sum no longer resides with the eligible group.

The period of ineligibility shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82 and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 41.26(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

When countable income, including the lump-sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the month received. For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals not in the eligible group when the lump-sum income was received may be eligible for the family investment program as a separate eligible group. Income of this eligible group plus income, excluding the lump-sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

d. The third digit to the right of the decimal point in any computation of income and hours of employment shall be dropped. This includes the calculation of the amount of a child support sanction as defined in paragraph 41.22(6) "f."

e. In any month for which an individual is determined eligible to be added to a currently active family investment program case, the individual's needs shall be included subject to the effective date of grant limitations as prescribed in 441—40.26(239B).

(1) When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively.

(2) The needs of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month.

f. Rescinded IAB 11/8/06, effective 1/1/07.

g. When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the period being used and dividing the result by the number of instances of income received in that period. The result shall be multiplied by four if the income is received weekly or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net income.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual's annual income shall be averaged over a 12-month period of time, even if the income is received within a short period of time during that 12-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3), (4), and (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3), (4) and (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, and after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the department shall recompute the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

j. Special needs.

(1) A special need as defined in 41.28(3) must be documented before payment shall be made.

(2) A one-time special need occurs and is considered in determining need for the calendar month in which the special need is entered on the automated benefit calculation system.

(3) An ongoing special need is considered in determining need for the calendar month following the calendar month in which the special need is entered on the automated benefit calculation system.

(4) When the special need continues, payment shall be included, prospectively, in each month's family investment program grant. When the special need ends, payment shall be removed prospectively. Any overpayment for a special need shall be recouped.

(5) Rescinded IAB 11/8/06, effective 1/1/07.

k. When a family's assistance for a month is subject to recoupment because the family was not eligible, individuals applying for assistance during the same month may be eligible for the family investment program as a separate eligible group. Income of this new eligible group plus income of the parent or other legally responsible person in the home shall be considered as available in determining

eligibility and the amount of the grant. The income of an ineligible parent or other legally responsible person shall be considered prospectively in accordance with 41.27(4) and 41.27(8).

41.27(10) *Aliens sponsored by individuals.* When an alien admitted for lawful permanent residence is sponsored by a person who executed an enforceable affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income of the alien shall be deemed to include the income of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount of the income of the sponsor and the sponsor's spouse deemed to the alien shall be the total gross earned and unearned income remaining after allowing the earned income deduction described at paragraph 41.27(2) "a," the work incentive disregard described at paragraph 41.27(2) "c," and diversions described at subrule 41.27(4). The following are exceptions to deeming of a sponsor's income:

a. Deeming of the sponsor's income does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at rule 441—40.21(239B); or

(3) The sponsored alien or the sponsor dies.

b. An indigent alien is exempt from the deeming of a sponsor's income for 12 months after indigence is determined. An alien shall be considered indigent if:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income for 12 months.

41.27(11) *Restriction on diversion of income.* No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule 441—46.29(239B), or who is required to be included in the eligible group according to 41.28(1) "a" and has failed to cooperate. This restriction applies to 41.27(4) "a" and 41.27(8).

This rule is intended to implement Iowa Code section 239B.7.

[ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 9043B, IAB 9/8/10, effective 11/1/10; ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 0148C, IAB 6/13/12, effective 8/1/12; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—41.28(239B) Need standards.

41.28(1) *Definition of the eligible group.* The eligible group consists of all eligible people specified below and living together, except when one or more of these people receive supplemental security income under Title XVI of the Social Security Act. There shall be at least one child in the eligible group except when the only eligible child is receiving supplemental security income. The unborn child is not considered a member of the eligible group for purposes of establishing the number of people in the eligible group.

a. The following persons shall be included (except as otherwise provided in these rules), without regard to the person's employment status, income or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as payee when the parent is in the home, but is unable to act as payee.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the incapacitated stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be obtained from either an independent physician or psychologist or the state rehabilitation agency. The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity. When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment. A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of incapacity.

(4) Rescinded IAB 6/30/99, effective 7/1/99.

41.28(2) *Schedule of needs.* The schedule of living costs represents 100 percent of basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the standard of need defined in 441—40.21(239B). The 185 percent schedule is included for the determination of eligibility in accordance with 441—41.27(239B). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for a family investment program grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, when these needs must be determined in accordance with the payment standard defined in 441—40.21(239B). The percentage of basic needs paid to one or more persons as compared to the schedule of living costs is shown on the chart below.

SCHEDULE OF NEEDS

[illegible]

CHART OF BASIC NEEDS COMPONENTS

(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	77.14	65.81	47.10	35.20	31.74	26.28	25.69	22.52	20.91	20.58
Utilities	19.29	16.45	11.77	8.80	7.93	6.57	6.42	5.63	5.23	5.14
Household Supplies	4.27	5.33	4.01	3.75	3.36	3.26	3.10	3.08	2.97	2.92
Food	34.49	44.98	40.31	39.11	36.65	37.04	34.00	33.53	32.87	32.36
Clothing	11.17	11.49	8.70	8.75	6.82	6.84	6.54	6.39	6.20	6.10
Pers. Care & Supplies	3.29	3.64	2.68	2.38	2.02	1.91	1.82	1.72	1.67	1.64
Med. Chest Supplies	.99	1.40	1.34	1.13	1.15	1.11	1.08	1.06	1.09	1.08
Communi-cations	7.23	6.17	3.85	3.25	2.50	2.07	1.82	1.66	1.51	1.49
Transportation	25.13	25.23	22.24	21.38	17.43	16.59	15.24	15.79	15.44	15.19

a. The definitions of the basic need components are as follows:

- (1) Shelter: Rental, taxes, upkeep, insurance, amortization.
- (2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.
- (3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.
- (4) Food: Including school lunches.
- (5) Clothing: Including layette, laundry, dry cleaning.
- (6) Personal care and supplies: Including regular school supplies.
- (7) Medicine chest items.
- (8) Communications: Telephone, newspapers, magazines.
- (9) Transportation: Includes bus fares and other out-of-pocket costs of operating a privately owned vehicle.

b. Special situations in determining eligible group:

(1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving the family investment program assistance for the relative's own children.

(2) When the unmarried specified relative under age 19 is living in the same home with a parent or parents who receive the family investment program, the needs of the specified relative, when eligible, shall be included in the same eligible group with the parent(s). When the specified relative is a parent, the needs of the eligible children for whom the unmarried parent is caretaker shall be included in the same eligible group. When the specified relative is a nonparental relative, the needs of the eligible children for whom the specified relative is caretaker shall be considered a separate eligible group.

When the unmarried specified relative under the age of 19 is living in the same home as a parent(s) who receives the family investment program but the specified relative is not an eligible child, need of the specified relative shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative is under the age of 18 and living in the same home with a parent(s) who does not receive the family investment program, the needs of the specified relative, when eligible, shall be included in the assistance grant with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined in 41.22(3), only the needs of the eligible

children shall be included in the assistance grant. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group is receiving supplemental security income benefits, the person, income, and resources shall not be considered in determining family investment program benefits for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of assistance, the assistance grant shall be computed on the basis of their comprising one eligible group. This rule shall not be construed to require that an application for assistance be made for children who are not the natural or adoptive children of the applicant.

41.28(3) *Special needs.* On the basis of demonstrated need the following special needs shall be allowed, in addition to the basic needs.

a. School expenses. Any specific charge, excluding tuition, for a child's education made by the school, or in accordance with school requirements in connection with a course in the curriculum, shall be allowed provided the allowance shall not exceed the reasonable cost required to meet the specifications of the course, and the student is actually participating in the course at the time the expense is claimed. Payment will not be made for ordinary expenses for school supplies.

b. Guardian/conservator fee. An amount not to exceed \$10 per case per month may be allowed for guardian's/conservator's fees when authorized by appropriate court order. No additional payment is permitted for court costs or attorney's fees.

c. FIP special needs classroom training. Rescinded IAB 12/3/97, effective 2/1/98.

d. Job Training Partnership Act. Rescinded IAB 12/3/97, effective 2/1/98.

41.28(4) *Period of adjustment.* Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code section 239B.5.

441—41.29(239B) Composite FIP/SSI cases. When persons in the family investment program household, who would ordinarily be in the eligible group, are receiving supplemental security income benefits, the following rules shall apply.

41.29(1) *Pending SSI approval.* When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the family investment program grant pending approval of supplemental security income.

41.29(2) *Ownership of property.* When property is owned by both the supplemental security income beneficiary and the family investment program recipient, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

This rule is intended to implement Iowa Code section 239B.5.

441—41.30(239B) Time limits.

41.30(1) *Sixty-month limit.* Assistance shall not be provided to a FIP applicant or recipient family that includes an adult who has received assistance for 60 calendar months under FIP or under any program in another state that is funded by the federal Temporary Assistance for Needy Families (TANF) block grant unless the applicant or recipient family is eligible for a hardship as defined in subrule 41.30(3). The 60-month period need not be consecutive. In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

a. An "adult" is any person who is a parent of the FIP child in the home, the parent's spouse, or included as an optional member under subparagraph 41.28(1) "b"(1) or (2).

b. "Assistance," for the purpose of this rule, shall include any month for which the adult receives a FIP grant or a payment in another state using federal Temporary Assistance for Needy Families (TANF) funds that the other state deems countable toward the 60-month federal limit. Assistance received for a partial month shall count as a full month.

41.30(2) *Determining number of months.*

a. In determining the number of months an adult received assistance, the department shall consider toward the 60-month limit:

(1) Assistance received even when the parent is excluded from the grant unless the parent, or both parents in a two-parent household, are supplemental security income (SSI) recipients.

(2) Assistance received by an optional member of the eligible group as described in subparagraphs 41.28(1) “b”(1) and (2). However, once the person has received assistance for 60 months, the person is ineligible but assistance may continue for other persons in the eligible group. The entire family is ineligible for assistance when the optional member who has received assistance for 60 months is the incapacitated stepparent on the grant as described at subparagraph 41.28(1) “b”(3).

b. When the parent, or both parents in a two-parent household, have received 60 months of FIP assistance and are subsequently approved for supplemental security income, FIP assistance for the children may be granted, if all other eligibility requirements are met.

c. When a minor parent and child receive FIP on the adult parent’s case and the adult parent is no longer eligible due to the 60-month limit on FIP assistance, the minor parent may reapply for FIP as a minor parent living with a self-supporting parent.

d. In determining the number of months an adult received assistance, the department shall not consider toward the 60-month limit any month for which FIP assistance was not issued for the family, such as:

(1) A month of suspension.

(2) A month for which no grant is issued due to the limitations described in rules 441—45.26(239B) and 441—45.27(239B).

(3) Rescinded IAB 1/9/02, effective 3/1/02.

(4) Rescinded IAB 1/9/02, effective 3/1/02.

e. The department shall not consider toward the 60-month limit months of assistance a parent or pregnant person received as a minor child and not as the head of a household or married to the head of a household. This includes assistance received for a minor parent for any month in which the minor parent was a child on the adult parent’s or the specified relative’s FIP case.

f. The department shall not consider toward the 60-month limit months of assistance received by an adult while living in Indian country (as defined in 18 United States Code Section 1151) or a Native Alaskan village where at least 50 percent of the adults were not employed.

41.30(3) *Exception to the 60-month limit.* A family may receive FIP assistance for more than 60 months as defined in subrule 41.30(1) if the family qualifies for a hardship exemption as described in this subrule. “Hardship” is defined as a circumstance that is preventing the family from being self-supporting. However, the family’s safety shall take precedence over the goal of self-sufficiency.

a. Rescinded IAB 12/9/15, effective 2/1/16.

b. Eligibility determination. Eligibility for the hardship exemption shall be determined on an individual family basis. A hardship exemption shall not begin until the adult in the family has received at least 60 months of FIP assistance.

c. Hardship exemption criteria. Circumstances that may lead to a hardship exemption may include, but are not limited to, the following:

(1) Domestic violence. “Domestic violence” means that the family includes someone who has been battered or subjected to extreme cruelty. It includes:

1. Physical acts that resulted in, or threatened to result in, physical injury to the individual.

2. Sexual abuse.

3. Sexual activity involving a dependent child.

4. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

5. Threats of, or attempts at, physical or sexual abuse.

6. Mental abuse.

7. Neglect or deprivation of medical care.

(2) Lack of employability.

(3) Lack of suitable child care as defined in 441—subrule 93.4(5).
(4) Chronic or recurring medical conditions or mental health issues, or an accident or disease, when verified by a professional. The applicant or recipient shall follow a treatment plan to address the condition or issue.

(5) Housing situations that make it difficult or impossible to work.

(6) Substance abuse issues. A family requesting a hardship exemption due to substance abuse shall be required to obtain clinical assessment and follow an intensive treatment plan.

(7) Having a child whose circumstances require the parent to be in the home. This may include, but is not limited to, a child as defined in rule 441—170.1(234) or a child receiving child welfare, juvenile court or juvenile justice services. The safety of the child shall take precedence over the goal of self-sufficiency.

(8) Rescinded IAB 1/8/03, effective 1/1/03.

(9) Other circumstances which prevent the family from being self-supporting.

d. Eligibility for a hardship exemption.

(1) Families may be eligible for a hardship exemption when circumstances prevent the family from being self-supporting. The hardship condition shall be a result of a past or current experience that is affecting the family's current functioning. Current experience may include fear of an event that is likely to occur in the future. The definition of the hardship barrier relies upon the impact of the circumstances upon the family's ability to leave FIP rather than the type of circumstances.

(2) Families with FIA-responsible persons who are not exempt from referral as defined in subrule 41.24(2) determined eligible for more than 60 months of FIP shall make incremental steps toward overcoming the hardship and participate to their maximum potential in activities reasonably expected to result in self-sufficiency.

(3) Barriers to economic self-sufficiency that an FIA-responsible person who is not exempt as defined in subrule 41.24(2) has that were known and existing before the family reached the 60-month limit shall not be considered as meeting eligibility criteria for hardship unless the individual complied with PROMISE JOBS activities offered to overcome that specific barrier.

e. Requesting a hardship exemption.

(1) Families that have or are close to having received 60 months of assistance as defined in subrule 41.30(1) may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months. In addition, families that have received assistance for 60 months shall complete Form 470-0462 or Form 470-0462(S), Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department's request shall result in denial of the hardship request.

(2) In families that request FIP beyond 60 months, all adults as defined in subrule 41.30(1) shall sign the request. When the adult is incompetent or incapacitated, someone acting responsibly on the adult's behalf may sign the request.

(3) Requests for a hardship exemption shall not be accepted prior to the first day of the family's fifty-ninth month of assistance. The date of the request shall be the date an identifiable Form 470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. An identifiable form is one that contains a legible name and address and that has been signed.

(4) To receive more than 60 months of FIP assistance, families must be eligible for a hardship exemption and meet all other FIP eligibility requirements.

(5) When an adult as defined in subrule 41.30(1) who has received assistance for 60 months joins a recipient family that has not received 60 months of assistance, eligibility shall continue only if the recipient family submits Form 470-3826 or Form 470-3826(S) and is approved for a hardship exemption as described in subrule 41.30(3) and meets all other FIP eligibility requirements.

(6) When an adult as defined in subrule 41.30(1) joins a recipient family that is in an exemption period, the current exemption period shall continue, if the recipient family continues to meet all other eligibility requirements, regardless of whether the joining adult has received FIP for 60 months.

(7) When two parents who are in a hardship exemption period separate, the remainder of the exemption period, if there is a need, shall follow the parent who retains the current FIP case.

f. Determination of hardship exemption.

(1) A determination on the request shall be made as soon as possible, but no later than 30 days following the date an identifiable Form 470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. A written notice of decision shall be issued to the family the next working day following a determination of eligibility or ineligibility for a hardship exemption. The 30-day time standard shall apply except in unusual circumstances, such as when the department and the family have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

(2) When a Financial Support Application is required to regain FIP eligibility, the 30-day time frame in rule 441—40.25(239B) shall apply.

(3) Income maintenance shall determine eligibility for a hardship exemption.

(4) The family shall provide supporting evidence of the hardship barrier and the impact of the barrier upon the family's ability to leave FIP. The department shall advise the applicant or recipient about how to obtain necessary documents. Upon request, the department shall provide reasonable assistance in obtaining supporting documents when the family is not reasonably able to obtain the documents. The type of supporting evidence is dependent upon the circumstance that creates the hardship barrier.

(5) Examples of types of supporting evidence may include:

1. Court, medical, criminal, child protective services, social services, psychological, or law enforcement records.

2. Statements from professionals or other individuals with knowledge of the hardship barrier.

3. Statements from vocational rehabilitation or other job training professionals.

4. Statements from individuals other than the applicant or recipient with knowledge of the hardship circumstances. Written statements from friends and relatives alone may not be sufficient to grant hardship status, but may be used to support other evidence.

5. Court, criminal, police records or statements from domestic violence counselors may be used to substantiate hardship. Living in a domestic violence shelter shall not automatically qualify an individual for a hardship exemption, but would be considered strong evidence.

6. Actively pursuing verification of a disability through the Social Security Administration may not be sufficient to grant hardship status, but may be used to support other evidence.

(6) The department shall notify the family in writing of additional information or verification that is required to verify the barrier and its impact upon the family's ability to leave FIP. The family shall be allowed ten days to supply the required information or verification. The ten-day period may be extended under the circumstances described in 441—subrule 40.24(1) or 441—paragraph 40.27(4) "c." Failure to supply the required information or verification, or refusal by the family to authorize the department to secure the information or verification from other sources, shall result in denial of the family's request for a hardship exemption.

(7) Rescinded IAB 12/12/01, effective 11/14/01.

(8) Rescinded IAB 12/12/01, effective 11/14/01.

(9) Recipients whose FIP assistance is canceled at the end of the sixtieth month shall be eligible for reinstatement as described at 441—subrule 40.22(5) when Form 470-3826 or Form 470-3826(S) is received before the effective date of cancellation even if eligibility for a hardship exemption is not determined until on or after the effective date of cancellation.

(10) When Form 470-3826 or Form 470-3826(S) is not received before the effective date of the FIP cancellation and a Financial Support Application is required for the family to regain FIP eligibility, the effective date of assistance shall be no earlier than seven days from the date of application as described at rule 441—40.26(239B).

(11) Eligibility for a hardship exemption shall last for six consecutive calendar months. EXCEPTION: The six-month hardship exemption ends when FIP for the family is canceled for any reason and a Financial Support Application is required for the family to regain FIP eligibility. In addition, when FIP

eligibility depends on receiving a hardship exemption, the family shall submit a new Form 470-3826 or Form 470-3826(S). A new hardship exemption determination shall be required prior to FIP approval.

(12) FIP received for a partial month of the six-month hardship exemption period shall count as a full month.

(13) There is no limit on the number of hardship exemptions a family may receive over time.

g. Six-month family investment agreement (FIA). Families who request a hardship exemption shall develop and sign a six-month family investment agreement (FIA) as defined at rule 441—93.4(239B) to address the circumstances that are creating the barrier. All adults as defined in subrule 41.30(1) shall sign the six-month FIA unless the adult is a stepparent and is not requesting assistance or is exempt as specified at subrule 41.24(2).

(1) The six-month FIA shall contain specific steps to enable the family to make incremental progress toward overcoming the barrier. Each subsequent hardship exemption shall require a new six-month FIA. Failure to develop or sign a six-month FIA shall result in denial of the family's hardship exemption request.

(2) Families that request a hardship exemption shall be notified verbally and shall be hand-issued the notice of a scheduled appointment for orientation and FIA development. If the notice of appointment cannot be hand-issued, at least five working days shall be allowed from the date the notice is mailed for a participant to appear for the scheduled appointment for orientation and FIA development unless the participant agrees to an appointment that is scheduled to take place in less than five working days.

(3) Failure to attend a scheduled interview when required, except for reasons beyond the adult's control, shall result in a denial of the family's hardship exemption request. In two-parent families, both parents shall be required to participate in any scheduled interview. When the adult is incompetent or incapacitated, someone acting responsibly on the adult's behalf may participate in the interview.

(4) PROMISE JOBS staff shall provide necessary supportive services as described in 441—Chapter 93 and shall monitor the six-month FIA. Periodic contacts shall be made with the family at least once a month. These contacts need not be in person. Time and attendance reports shall be required as specified at 441—subrule 93.10(2).

(5) The six-month FIA shall be renegotiated and amended under the circumstances described at 441—subrule 93.4(8).

(6) Any family that is not exempt from referral as defined in subrule 41.24(2), that has been granted a hardship exemption, and that does not follow the terms of the family's six-month FIA will have chosen a limited benefit plan in accordance with 441—Chapters 41 and 93.

h. Any family that is denied a hardship exemption may appeal the decision as described in 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 239B.

[ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1478C, IAB 6/11/14, effective 8/1/14; ARC 2272C, IAB 12/9/15, effective 2/1/16]

[Filed 6/23/55; amended 4/12/72, 8/30/72, 11/20/72, 12/28/72, 6/21/73,
10/24/73, 3/20/74, 7/1/74, 12/2/74, 3/21/75]

[Emergency amendments filed and effective 9/19/75—published 10/6/75]

[Filed 11/25/75, Notice 10/6/75—published 12/15/75, effective 1/19/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed without notice 7/29/76—published 8/23/76, effective 9/27/76]

[Filed emergency 7/29/76—published 8/23/76, effective 7/29/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed 4/13/77, Notice 2/23/77—published 5/4/77, effective 6/8/77, 7/1/77]

[Filed emergency 7/20/77—published 8/10/77, effective 7/20/77]

[Filed 8/18/77, Notice 6/15/77—published 9/7/77, effective 10/12/77]

[Filed 1/16/78, Notice 9/7/77—published 2/8/78, effective 3/15/78]

[Filed 2/8/78, Notice 12/28/77—published 3/8/78, effective 4/12/78]

[Filed 6/1/78, Notice 4/19/78—published 6/28/78, effective 4/19/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 11/1/78]

- [Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 11/8/78]
- [Filed 12/6/78, Notice 10/4/78—published 12/27/78, effective 2/1/79]
- [Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]
- [Filed 1/31/79, Notice 11/29/78—published 2/21/79, effective 4/1/79]
- [Filed 2/2/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]
- [Filed 3/30/79, Notice 2/21/79—published 4/18/79, effective 5/23/79]
- [Filed 6/5/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]
- [Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]
- [Filed 7/3/79, Notice 4/18/79—published 7/25/79, effective 9/1/79]
- [Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 9/26/79]
- [Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 10/1/79]
- [Filed emergency after Notice 9/6/79, Notice 7/11/79—published 10/3/79, effective 10/1/79]
- [Filed 9/6/79, Notice 7/11/79—published 10/3/79, effective 12/1/79]
- [Filed 9/27/79, Notices 2/21/79, 4/18/79—published 10/17/79, effective 12/1/79]
- [Filed 10/24/79, Notice 8/22/79—published 11/14/79, effective 1/1/80]
- [Filed 4/4/80, Notice 1/23/80—published 4/30/80, effective 6/4/80]
- [Filed emergency 5/5/80—published 5/28/80, effective 5/5/80]
- [Filed emergency 6/4/80—published 6/25/80, effective 6/4/80]
- [Filed 6/4/80, Notice 1/9/80—published 6/25/80, effective 8/1/80]
- [Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]
- [Filed 7/3/80, Notice 5/14/80—published 7/23/80, effective 9/1/80]
- [Filed 9/25/80, Notice 8/6/80—published 10/15/80, effective 11/19/80]
- [Filed 9/25/80, Notices 5/14/80, 7/23/80—published 10/15/80, effective 12/1/80]
- [Filed 1/16/81, Notice 11/12/80—published 2/4/81, effective 4/1/81]
- [Filed emergency 3/24/81—published 4/15/81, effective 3/24/81]
- [Filed emergency 3/24/81—published 4/15/81, effective 4/1/81]
- [Filed 3/24/81, Notice 2/4/81—published 4/15/81, effective 6/1/81]
- [Filed without Notice 3/24/81—published 4/15/81, effective 6/1/81]
- [Filed 4/23/81, Notices 2/18/81, 3/4/81—published 5/13/81, effective 7/1/81]
- [Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
- [Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]
- [Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]^o
- [Filed 10/23/81, Notice 8/19/81—published 11/11/81, effective 1/1/82]
- [Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 2/1/82]
- [Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]
- [Filed 2/26/82, Notice 12/9/81—published 3/17/82, effective 5/1/82]
- [Filed 4/5/82, Notice 1/20/82—published 4/28/82, effective 7/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 6/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
- [Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]
- [Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
- [Filed emergency 7/30/82—published 8/18/82, effective 7/30/82]
- [Filed 7/30/82, Notice 4/14/82—published 8/18/82, effective 10/1/82]
- [Filed emergency 9/23/82—published 10/13/82, effective 10/1/82]
- [Filed emergency 10/29/82—published 11/24/82, effective 11/1/82]^o
- [Filed emergency 2/25/83—published 3/16/83, effective 3/1/83]
- [Filed 2/25/83, Notice 10/27/82—published 3/16/83, effective 5/1/83]
- [Filed 2/25/83, Notices 7/7/82, 9/1/82—published 3/16/83, effective 5/1/83]
- [Filed emergency 3/25/83—published 4/13/83, effective 5/1/83]
- [Filed 4/15/83, Notice 10/27/82—published 5/11/83, effective 7/1/83]
- [Filed 4/21/83, Notice 2/16/83—published 5/11/83, effective 7/1/83]
- [Filed emergency 5/20/83—published 6/8/83, effective 6/1/83]

- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 9/1/83—published 9/28/83, effective 9/1/83]
- [Filed 9/1/83, Notice 6/22/83—published 9/28/83, effective 11/2/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 9/30/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 10/1/83]
- [Filed 11/18/83, Notices 9/28/83, 10/12/83—published 12/7/83, effective 2/1/84]^o
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 12/16/83, Notices 3/16/83, 5/11/83, 6/8/83—published 1/4/84, effective 3/1/84]
- [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
- [Filed emergency 7/13/84—published 8/1/84, effective 8/1/84]
- [Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]
- [Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]
- [Filed emergency 11/1/84—published 11/21/84, effective 11/1/84]
- [Filed emergency 11/16/84—published 12/5/84, effective 12/1/84]
- [Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
- [Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]
- [Filed 1/21/85, Notice 12/5/84—published 2/13/85, effective 4/1/85]
- [Filed 3/4/85, Notice 1/2/85—published 3/27/85, effective 5/1/85]
- [Filed emergency after Notice 3/22/85, Notice 2/13/85—published 4/10/85, effective 4/1/85]
- [Filed 3/22/85, Notices 1/30/85, 2/13/85—published 4/10/85, effective 6/1/85]
- [Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
- [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]
- [Filed emergency after Notice 11/15/85, Notice 9/25/85—published 12/4/85, effective 12/1/85]
- [Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
- [Filed emergency after Notice 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/1/86]
- [Filed 3/21/86, Notice 9/25/85—published 4/9/86, effective 6/1/86]
- [Filed without Notice 4/28/86—published 5/21/86, effective 7/1/86]
- [Filed emergency 5/28/86 after Notice 4/9/86—published 6/18/86, effective 6/1/86]
- [Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
- [Filed emergency 8/28/86 after Notice 7/16/86—published 9/24/86, effective 9/1/86]
- [Filed 9/3/86, Notice 7/2/86—published 9/24/86, effective 11/1/86]
- [Filed emergency 11/14/86 after Notice 10/8/86—published 12/3/86, effective 12/1/86]
- [Filed 11/14/86, Notice 10/8/86—published 12/3/86, effective 2/1/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 2/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]
- [Filed emergency 8/28/87—published 9/23/87, effective 9/1/87]
- [Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
- [Filed 11/25/87, Notice 9/23/87—published 12/16/87, effective 2/1/88]
- [Filed 2/17/88, Notice 12/30/87—published 3/9/88, effective 6/1/88]
- [Filed without Notice 3/17/88—published 4/6/88, effective 6/1/88]
- [Filed 3/17/88, Notice 1/27/88—published 4/6/88, effective 6/1/88]
- [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
- [Filed 5/13/88, Notices 12/16/87, 3/23/88—published 6/1/88, effective 8/1/88]
- [Filed emergency 6/9/88 after Notice 5/4/88—published 6/29/88, effective 7/1/88]
- [Filed emergency 12/8/88—published 12/28/88, effective 12/8/88]
- [Filed 2/16/89, Notice 1/11/89—published 3/8/89, effective 5/1/89]
- [Filed emergency 4/13/89 after Notice 3/8/89—published 5/3/89, effective 5/1/89]
- [Filed 4/13/89, Notices 2/22/89, 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]

[Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
[Filed emergency 9/15/89—published 10/4/89, effective 10/1/89]
[Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
[Filed emergency 2/16/90—published 3/7/90, effective 4/1/90]
[Filed 4/13/90, Notices 2/21/90, 3/7/90—published 5/2/90, effective 7/1/90]
[Filed emergency 5/11/90—published 5/30/90, effective 7/1/90]
[Filed 6/14/90, Notice 4/18/90—published 7/11/90, effective 9/1/90]
[Filed 7/13/90, Notice 5/30/90—published 8/8/90, effective 10/1/90]
[Filed emergency 8/16/90 after Notice 7/11/90—published 9/5/90, effective 9/1/90]
[Filed 8/16/90, Notice 6/13/90—published 9/5/90, effective 11/1/90]
[Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
[Filed emergency 2/14/91 after Notice 1/9/91—published 3/6/91, effective 3/1/91]
[Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
[Filed without Notice 4/11/91—published 5/1/91, effective 7/1/91]
[Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
[Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
[Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
[Filed 9/18/91, Notice 7/10/91^o—published 10/16/91, effective 12/1/91]
[Filed emergency 10/10/91 after Notice 9/4/91—published 10/30/91, effective 11/1/91]
[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
[Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]^o
[Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
[Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
[Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed emergency 1/11/95 after Notice 11/23/94—published 2/1/95, effective 2/1/95]
[Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
[Filed 7/12/95, Notice 5/10/95—published 8/2/95, effective 10/1/95]
[Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
[Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
[Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
[Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
[Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
[Filed 12/12/96, Notice 10/9/96—published 1/1/97, effective 3/1/97]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
[Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed 12/10/97, Notice 10/8/97—published 12/31/97, effective 3/1/98]
[Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 9/1/98]

[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
 [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
 [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
 [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
 [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
 [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
 [Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
 [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 3/1/00]
 [Filed emergency 3/8/00—published 4/5/00, effective 4/1/00]
 [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
 [Filed 6/8/00, Notice 4/5/00—published 6/28/00, effective 9/1/00]
 [Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
 [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
 [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
 [Filed emergency 11/14/01—published 12/12/01, effective 11/14/01]
 [Filed 12/12/01, Notice 10/17/01—published 1/9/02, effective 3/1/02]
 [Filed 2/14/02, Notice 12/12/01—published 3/6/02, effective 5/1/02]
 [Filed emergency 3/14/02—published 4/3/02, effective 4/1/02]
 [Filed 4/10/02, Notice 11/14/01—published 5/1/02, effective 7/1/02]
 [Filed 5/9/02, Notice 4/3/02—published 5/29/02, effective 8/1/02]
 [Filed emergency 12/12/02 after Notice 10/30/02—published 1/8/03, effective 1/1/03]
 [Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]
 [Filed 7/1/04, Notice 1/21/04—published 7/21/04, effective 9/1/04]
 [Filed 9/23/04, Notice 7/7/04—published 10/13/04, effective 11/17/04]
 [Filed 8/12/05, Notice 6/8/05—published 8/31/05, effective 11/1/05]
 [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
 [Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
 [Filed emergency 6/13/07—published 7/4/07, effective 8/1/07]
 [Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]
 [Filed emergency 3/12/08—published 4/9/08, effective 3/12/08]
 [Filed 6/11/08, Notice 4/9/08—published 7/2/08, effective 8/6/08]
 [Filed 7/9/08, Notice 5/21/08—published 7/30/08, effective 10/1/08]
 [Filed emergency 8/15/08 after Notice 7/2/08—published 9/10/08, effective 10/1/08]
 [Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
 [Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
 [Filed 12/15/08, Notice 10/22/08—published 1/14/09, effective 3/1/09]
 [Filed ARC 8004B (Notice ARC 7776B, IAB 5/20/09), IAB 7/29/09, effective 10/1/09]
 [Filed Emergency After Notice ARC 8500B (Notice ARC 8272B, IAB 11/4/09), IAB 2/10/10,
 effective 3/1/10]
 [Filed ARC 9043B (Notice ARC 8853B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
 [Filed ARC 9439B (Notice ARC 9309B, IAB 12/29/10), IAB 4/6/11, effective 6/1/11]
 [Filed ARC 0148C (Notice ARC 0048C, IAB 3/21/12), IAB 6/13/12, effective 8/1/12]
 [Filed ARC 1146C (Notice ARC 0914C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1208C (Notice ARC 0999C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
 [Filed ARC 1207C (Notice ARC 1001C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
 [Filed ARC 1478C (Notice ARC 1385C, IAB 3/19/14), IAB 6/11/14, effective 8/1/14]
 [Filed ARC 1694C (Notice ARC 1588C, IAB 8/20/14), IAB 10/29/14, effective 1/1/15]
 [Filed ARC 2272C (Notice ARC 2147C, IAB 9/16/15), IAB 12/9/15, effective 2/1/16]

◊ Two or more ARCs

¹ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

CHAPTER 46 OVERPAYMENT RECOVERY

[Prior to 7/1/83, Social Services[770] Ch 46]

[Prior to 2/11/87, Human Services[498]]

DIVISION I FAMILY INVESTMENT PROGRAM—CONTROL GROUP [Rescinded IAB 2/12/97, effective 3/1/97]

441—46.1 to 46.20 Reserved.

DIVISION II FAMILY INVESTMENT PROGRAM—TREATMENT GROUP [Prior to 10/13/93, 441—46.1(239) to 46.8(239)]

441—46.21(239B) Definitions.

“*Agency error*” in overpayments means: (a) The same as circumstances described in 441—subrule 45.24(1) pertaining to underpayments, or (b) any error that is not a client or procedural error.

“*Client*” means a current or former applicant or recipient of the family investment program.

“*Client error*” means and may result from:

1. False or misleading statements, oral or written, regarding the client’s income, resources, or other circumstances which may affect eligibility or the amount of assistance received;
2. Failure to timely report changes in income, resources, or other circumstances as required by rule 441—40.27(239B);
3. Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made; or
4. Access of benefits issued via the electronic access card at a prohibited location pursuant to 441—subrule 41.25(11).

“*Overpayment*” means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed at a prohibited location pursuant to 441—subrule 41.25(11).

“*Procedural error*” means a technical error that does not in and of itself result in an overpayment. Procedural errors include:

1. Failure to secure a properly signed application at the time of initial application or reapplication.
2. Failure to secure a properly signed Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months, as described at 441—subrule 41.30(3).
3. Failure of the department to conduct the interviews described in 441—subrules 40.24(2) and 40.27(1).
4. Failure to request a Review/Recertification Eligibility Document at the time of a semiannual or annual review.
5. Failure of department staff to cancel the family investment program benefits when the client submits a Review/Recertification Eligibility Document that is not complete as defined in 441—paragraph 40.27(4) “b.” However, overpayments of grants as defined above based on incomplete reports are subject to recoupment.

“*Recoup*” means reimburse, return, or repay an overpayment.

“*Recoupment*” means the repayment of an overpayment, either by a payment from the client or an amount withheld from the assistance grant or both.

[ARC 1207C, IAB 12/11/13, effective 2/1/14; ARC 2272C, IAB 12/9/15, effective 2/1/16]

441—46.22(239B) Monetary standards.

46.22(1) Amount subject to recoupment. All family investment program overpayments shall be subject to recoupment.

46.22(2) Grant issued. When recoupment is made by withholding from the family investment program grant, the grant issued shall be for no less than \$10.

441—46.23(239B) Notification and appeals. All clients shall be notified by the department of inspections and appeals, as described at 441—subrule 7.5(6), when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. The department shall provide additional information regarding the computation of the overpayment upon the client's request. The client may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—subrule 7.5(6).

441—46.24(239B) Determination of overpayments. All overpayments due to agency or client error or due to assistance paid pending an appeal decision shall be recouped. A procedural error alone does not result in an overpayment.

46.24(1) Agency error. When an overpayment is due to an agency error, recoupment shall be made, including those instances when errors by the department prevent the requirements in 441—subrule 41.22(6) or 41.22(7) from being met or when the client receives a duplicate grant.

a. An overpayment of any amount is subject to recoupment with one exception: When the client receives a grant that exceeds the amount on the most recent notice from the department, recoupment shall be made only when the amount received exceeds the amount on the notice by \$10 or more.

b. An overpayment due to agency error shall be computed as if the information had been acted upon timely.

46.24(2) Assistance paid pending appeal decision. Recoupment of overpayments resulting from assistance paid pending a decision on an appeal hearing shall begin no later than the month after the month in which the final decision is issued.

46.24(3) Client error.

a. An overpayment due to client error shall be computed as if the information had been reported and acted upon timely.

b. Overpayments due to failure to refund payments received from the absent parent shall be the total nonexempt support payment made for members of the eligible group at the time the support payment was received. In addition, assistance payments made to meet the needs of the eligible group may also be subject to recoupment under provisions in 441—subrule 41.22(6).

c. An overpayment due to a recipient's accessing benefits via the electronic access card at a prohibited location shall be the total of the transactions at prohibited locations pursuant to 441—subrule 41.25(11).

46.24(4) Failure to cooperate. Failure to cooperate in the investigation of alleged overpayments shall result in ineligibility for the months in question and the overpayment shall be the total amount of assistance received during those months.

46.24(5) Overpayment in special alien cases. Rescinded IAB 10/4/00, effective 12/1/00.

46.24(6) Real property exempted as a resource. Rescinded IAB 6/30/99, effective 9/1/99.
[ARC 1207C, IAB 12/11/13, effective 2/1/14]

441—46.25(239B) Source of recoupment. Recoupment shall be made from basic needs. The minimum recoupment amount shall be the amount prescribed in 46.25(3). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments when an agreement to do this is made with the department of inspections and appeals, or have repayment withheld from the grant. The client shall sign Form 470-0495, Repayment Contract, when requested to do so by the department of inspections and appeals. When the client fails to make the agreed upon payment, the agency shall reduce the grant.

46.25(1) and 46.25(2) Rescinded, effective February 8, 1984.

46.25(3) Basic needs.

a. Recoupment by withholding from basic needs for overpayments due to client error or a combination of client and agency errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

b. Recoupment by withholding from basic needs for overpayments due to the continuation of benefits pending a decision on an appeal as provided under rule 441—7.9(217) or a combination

of continued benefits and agency or client errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

c. Recoupment by withholding from basic needs for overpayments due to agency error shall be 1 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

d. Rescinded IAB 6/30/99, effective 9/1/99.

46.25(4) *Recoupment in special alien cases.* Rescinded IAB 10/4/00, effective 12/1/00.

441—46.26 Rescinded, effective February 8, 1984.

441—46.27(239B) Procedures for recoupment.

46.27(1) Rescinded IAB 2/8/89, effective 4/1/89.

46.27(2) *Referral.* When the department determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

46.27(3) Rescinded IAB 2/8/89, effective 4/1/89.

46.27(4) *Change of circumstances.* When financial circumstances change, the recoupment plan is subject to revision.

46.27(5) *Collection.* Recoupment for overpayments shall be made from the parent or nonparental relative who was the caretaker relative, as defined in 441—subrule 41.22(3), at the time the overpayment occurred. When both parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.

46.27(6) *Suspension and waiver.* Recoupment will be suspended on nonfraud overpayments when the case is canceled and the amount of the overpayment is less than \$35. If the case is reopened within three years, recoupment is initiated again. Recoupment will be waived on nonfraud overpayments of less than \$35 which have been held in suspense for three years.

441—46.28(239B) Intentional program violation. Rescinded IAB 11/8/06, effective 1/1/07.

441—46.29(239B) Fraudulent misrepresentation of residence. A person convicted in a state or federal court, or in an administrative hearing, of having made a fraudulent statement or representation of the person's place of residence in order to receive assistance simultaneously from two or more states shall be ineligible for assistance for ten years. For the purpose of this rule, the term "assistance" means assistance under Titles IV-A or XIX of the Social Security Act, or the Food Stamp Act of 1977, or benefits in two or more states under the Supplemental Security Income program under Title XVI. The ten-year period begins on the date the person is convicted. The prohibition does not apply to a convicted person who is pardoned by the President of the United States, beginning with the month after the pardon is given.

These rules are intended to implement Iowa Code sections 239B.2, 239B.3, 239B.7, and 239B.14.

[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 8/1/81]

[Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]

[Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]

[Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]

[Filed emergency 5/21/82—published 6/9/82, effective 5/21/82]

[Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]

[Filed 7/30/82, Notice 5/26/82—published 8/18/82, effective 10/1/82]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 11/18/83 after Notice 10/12/83—published 12/7/83, effective 1/1/84]

[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]

[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]

[Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]

[Filed emergency after Notice 3/22/85, Notice 2/13/85—published 4/10/85, effective 4/1/85]

[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]

[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]

[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed 1/12/89, Notice 11/16/88—published 2/8/89, effective 4/1/89]
[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
[Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
[Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
[Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
[Filed emergency 11/14/01—published 12/12/01, effective 11/14/01]
[Filed 2/14/02, Notice 12/12/01—published 3/6/02, effective 5/1/02]
[Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
[Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
[Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
[Filed ARC 1207C (Notice ARC 1001C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
[Filed ARC 2272C (Notice ARC 2147C, IAB 9/16/15), IAB 12/9/15, effective 2/1/16]

CHAPTER 57
RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meanings indicated in this rule. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting and ambulation.

“Administrator” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such person has an ownership interest in the facility, and whether or not the functions and duties are shared with one or more other persons.

“Ambulatory” means the condition of a person who immediately and without the aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

“Board” means the regular provision of meals.

“Change of ownership” means the purchase, transfer, assignment, or lease of a licensed residential care facility.

“Communicable disease” means a disease caused by the presence within a person’s body of a virus or microbial agent which may be transmitted either directly or indirectly to other persons.

“Department” means the department of inspections and appeals.

“Distinct part” means a clearly identifiable area or section containing contiguous rooms within a health care facility.

“Interdisciplinary team” means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident’s needs.

“Legal representative” means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

“Medication” means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

“Nonambulatory” means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

“Primary care provider” means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Rate” means the daily fee that is charged for all residents equally and that includes the cost of all minimum services required in these rules and regulations.

“Records” includes electronic records.

“Responsible party” means the person who signs or cosigns the residency agreement required in rule 481—57.15(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term *“responsible party”* shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.2(135C,17A) Waiver or variance. A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.3(135C) Application for licensure.

57.3(1) Application and licensing—new facility or change of ownership. In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility or for a residential care facility when a change of ownership is contemplated, the applicant must:

a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.

b. Meet all of the rules, regulations, and standards contained in 481—Chapters 50, 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.

c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 57.3(2).

d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.

e. Submit a photograph of the front and side of the residential care facility.

f. Submit the statutory fee for a residential care facility license.

g. Comply with all other local statutes and ordinances in existence at the time of licensure.

h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

57.3(2) Résumé of care. The résumé of care shall describe the following:

a. Purpose of the facility;

b. Criteria for admission to the facility;

c. Ownership of the facility;

d. Composition and responsibilities of the governing board;

e. Qualifications and responsibilities of the administrator;

f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;

g. Dental services provided to residents and available in the area;

h. Nursing services provided to residents, if applicable;

i. Personal services provided to residents, including supervision of or assistance with activities of daily living;

j. Activity program;

k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;

l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;

m. Housekeeping;

n. Laundry;

- o.* Physical plant; and
- p.* Staffing provided to meet residents' needs.

57.3(3) *Renewal application.* In order to obtain a renewal of the residential care facility license, the applicant must submit the following:

- a.* The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b.* The statutory license fee for a residential care facility;
- c.* An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d.* Changes to the résumé of care, if any; and
- e.* Changes to the current residency agreement, if any.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.4(135C) *Issuance of license.* Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.5(135C) *Licenses for distinct parts.*

57.5(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, contain contiguous rooms, and provide separate categories of care and services.

57.5(2) The following requirements shall be met for separate licensing of a distinct part:

- a.* The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)
- b.* The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.
- c.* The distinct part must be operationally and financially feasible.
- d.* Personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)
- e.* Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code sections 135C.6(2) and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.6(135C) *Special classification—memory care.*

57.6(1) *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. “Memory care” in a residential care facility means the care of persons with early Alzheimer’s-type dementia or other disorders causing dementia. (I, II, III)

- a.* Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)
- b.* Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)
- c.* If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.6(2) *Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

- a.* Describe the population to be served;
- b.* State the philosophy and objectives;

- c. List criteria for transfer to and from the memory care unit or facility;
- d. Include a copy of the floor plan;
- e. List the titles of policies and procedures developed for the unit or facility;
- f. Propose a staffing pattern;
- g. Set out a plan for specialized staff training;
- h. State visitor, volunteer, and safety policies;
- i. Describe programs for activities, social services and families; and
- j. Describe the interdisciplinary team and the role of each team member.

57.6(3) Policies and procedures. Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

a. Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

b. Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

e. The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.6(4) Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

57.6(5) Staff training. All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

b. Training shall include the following topics: (II, III)

(1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

(2) Skills for communicating with persons with dementia;

(3) Skills for communicating with family and friends of persons with dementia;

(4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

(5) The importance of planned and spontaneous activities;

(6) Skills in providing assistance with activities of daily living;

(7) Skills in working with challenging residents;

(8) Techniques for cueing, simplifying, and redirecting;

(9) Staff support and stress reduction;

(10) Medication management and nonpharmacological interventions.

c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually.

This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.6(5) “a” shall count toward the required annual in-service training. (II, III)

57.6(6) Staffing. There shall be at least one staff person on a memory care unit at all times. (I, II, III)

57.6(7) Others living in the memory care unit. A resident not requiring memory care services may live in the memory care unit if the resident’s spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident’s legal representative consents in writing to the placement. (II, III)

57.6(8) Revocation, suspension or denial. The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3) “b” and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.7(135C) General requirements.

57.7(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

57.7(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.7(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.7(4) The license shall expire one year after the date of issuance or as indicated on the license.

57.7(5) The licensee shall:

- a. Assume the responsibility for the overall operation of the residential care facility. (I, II, III)
- b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)
- c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

57.7(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.8(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of the long-term care ombudsman and the Iowa department on aging.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.9(135C) Required notifications to the department. The department shall be notified:

57.9(1) Thirty days before any proposed change in the residential care facility’s functional operation or addition or deletion of required services; (III)

57.9(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

57.9(3) Thirty days before closure of the residential care facility; (III)

57.9(4) Within two weeks of any change in administrator; (III)

57.9(5) Ninety days before a change in the category of license; (III)

57.9(6) Thirty days before a change of ownership, the licensee shall:

- a. Inform the department of the pending change of ownership; (III)
- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.10(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

57.10(1) Qualifications of an administrator.

a. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. An individual employed as an administrator on January 14, 2015, will be deemed to meet the requirements of this subrule.

57.10(2) Duties of an administrator. The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Arrange for the heads of nursing, social services, dietary and activities to attend a minimum of ten contact hours of educational programs per year to increase skills and knowledge needed for their positions. The ten hours is in addition to the in-service requirements in paragraph 57.10(2) "c." (III)

c. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (fire, tornado, flood, 911, etc.).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness/behavior modification/crisis intervention.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

57.10(3) Administrator serving at more than one residential care facility. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill or developmentally disabled; (II, III)

(2) Be knowledgeable of the operation of the facility; (II, III)

(3) Have access to records concerned with the operation of the facility; (II, III)

(4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

(5) Be at least 21 years of age; (III)

(6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)

(7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

57.10(4) Provisional administrator. A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 57.10(3) "b."

57.10(5) Temporary absence of administrator.

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

(1) Be knowledgeable of the operation of the facility; (III)

(2) Have access to records concerned with the operation of the facility; (III)

(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 57.10(4).

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.11(135C) Personnel.

57.11(1) Alcohol and drug use prohibited. No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

57.11(2) Job description. There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

57.11(3) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2014 Iowa Acts, chapter 1040, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

57.11(4) Personnel record. A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address, social security number, date of birth, date of employment, position, experience and education, references, results of criminal record checks, child abuse checks and dependent adult abuse checks, and date of discharge or resignation. (III)

57.11(5) Supervision and staffing.

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be awake at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

57.11(6) *Physical examination and screening.* Employees shall have a physical examination no longer than 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.11(7) *Orders for medications and treatments.* Orders for medications and treatments shall be correctly implemented by qualified personnel. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 2273C, IAB 12/9/15, effective 1/13/16]

481—57.12(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

57.12(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including, but not limited to the following: (III)

- a. Personnel; (III)
- b. Admission; (III)
- c. Evaluation services; (II, III)
- d. Programming and individual program plans; (II, III)
- e. Registered sex offender management; (II, III)
- f. Crisis intervention; (II, III)
- g. Discharge or transfer; (III)
- h. Medication management, including self-administration of medications and chemical restraints; (III)
- i. Resident property; (II, III)
- j. Resident finances; (II, III)
- k. Records; (III)
- l. Health and safety; (II, III)
- m. Nutrition; (III)
- n. Physical facilities and maintenance; (III)
- o. Resident rights; (II, III)
- p. Investigation and reporting of alleged dependent adult abuse; (II, III)
- q. Investigation and reporting of accidents or incidents; (II, III)
- r. Transportation of residents; (II, III)
- s. Resident supervision; (II, III)
- t. Smoking; (III)
- u. Visitors; (III)
- v. Disaster/emergency planning; (III) and
- w. Infection control. (III)

57.12(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

57.12(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a. Techniques for hand washing; (I, II, III)
- b. Techniques for handling of blood, body fluids, and body wastes; (I, II, III)
- c. Dressings, soaks or packs; (I, II, III)

- d. Infection identification; (I, II, III)
- e. Resident care procedures to be used when there is an infection present; (I, II, III)
- f. Sanitation techniques for resident care equipment; (I, II, III)
- g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

57.12(4) Resident care techniques. The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

- a. Intravenous or central line catheter; (I, II, III)
- b. Urinary catheter; (I, II, III)
- c. Respiratory suction, oxygen or humidification; (I, II, III)
- d. Decubitus care; (I, II, III)
- e. Tracheostomy; (I, II, III)
- f. Nasogastric or gastrostomy tubes; (I, II, III)
- g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

57.12(5) Emergency care. The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.13(135C) Admission, transfer and discharge.

57.13(1) General admission policies.

- a. Residents shall be admitted to a residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)
- b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)
- c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)
- d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)
- e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)
- f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)
- g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

57.13(2) Discharge or transfer.

- a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)
- b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)
- c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. “Appropriate record” includes the resident’s face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident’s unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.14(135C) Involuntary discharge or transfer.

57.14(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident’s welfare or that of other residents;
- c. Repeated refusal by the resident to participate in the resident’s service plan;
- d. Due to action pursuant to Iowa Code chapter 229; or
- e. Nonpayment for the resident’s stay, as described in the residency agreement for the resident’s stay.

57.14(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident’s needs and shall be determined and documented in the resident’s record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

57.14(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident’s social, emotional, or physical well-being. A resident may be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with other residents’ needs and rights). Written documentation that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

57.14(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice shall contain all of the following information:
 - (1) The stated reason for the proposed transfer or discharge. (II)
 - (2) The effective date of the proposed transfer or discharge. (II)
 - (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department’s designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

- b. The notice shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department; the resident’s responsible party; the resident’s primary care provider; the person or agency responsible for the resident’s placement, maintenance, and care in

the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 57.14(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(6) *Hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving the written notice.
- (2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination

as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

57.14(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

57.14(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

57.14(9) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 57.14(9) "b" does not apply if the discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

57.14(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.14(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 57.14(11)“a”(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 57.14(11)“a”(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 57.14(11)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.15(135C) Residency agreement.

57.15(1) Each residency agreement shall:

a. State the base rate or scale per day or per month, the services included, and the method of payment. (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

57.15(2) Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.16(135C) Medical examinations.

57.16(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

57.16(2) Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, diet, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.16(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

57.16(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.17(135C) Records.

57.17(1) *Resident record.* The licensee shall keep a permanent record on every resident admitted to the residential care facility, and all entries in the permanent record shall be current, dated, and signed. (III) The record shall include:

- a.* Name and previous address of resident; (III)
- b.* Birth date, sex, and marital status of resident; (III)
- c.* Church affiliation, if designated; (III)

- d.* Primary care provider's name, telephone number, and address; (III)
- e.* Dentist's name, telephone number, and address; (III)
- f.* Name, address, and telephone number of next of kin or legal representative; (III)
- g.* Name, address, and telephone number of person to be notified in case of emergency; (III)
- h.* Pharmacy name, telephone number, and address; (III)
- i.* Mortuary name, telephone number, and address, if designated; (III)
- j.* Physical examination and medical history; (III)
- k.* Primary care provider's orders for the resident's level of care, medication, treatments, and diet. The orders shall be in writing and signed by the primary care provider quarterly; (III)
- l.* A notation of visits to primary care provider and other professional services; (III)
- m.* Documentation regarding services provided by other providers, including but not limited to home health agencies, hospice, day treatment and those providing medical, mental health and Medicaid waiver services; (III)
- n.* Documentation of any adverse change in the resident's condition; (II, III)
- o.* A notation describing the resident's condition on admission, transfer and discharge; (III)
- p.* A copy of instructions given to the resident, legal representative or facility in the event of discharge or transfer; (III)
- q.* In the event of a resident's death, notations of the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time the resident's family and primary care provider were notified of the resident's death; and (III)
- r.* A notation of disposition of personal property and medications upon the resident's transfer, discharge or death. (III)

57.17(2) Confidentiality of resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive the information. (II)

- a.* The facility shall limit access to any medical records to staff and professionals providing services to the resident. (II)
- b.* The facility shall limit access to the resident's personal records, e.g., financial records and social services records, to staff and professionals providing the service to the resident. Only those personnel concerned with the financial affairs of the resident may have access to the financial records. (II)
- c.* The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines that the disclosure of the record or section thereof is contraindicated, in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)
- d.* This subrule is not meant to preclude access to resident records by representatives of state and federal regulatory agencies.

57.17(3) Incident record.

- a.* Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)
- b.* Report of incidents shall be in detail on an incident report form. (III)
- c.* The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)
- d.* An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)
- e.* An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)
- f.* A copy of the incident report shall be kept on file in the facility. (II, III)

57.17(4) Retention of records.

- a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)
- b. Records shall be retained within the facility upon change of ownership. (III)
- c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)
- d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

57.17(5) Electronic records. In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.18(135C) Resident care and personal services.

57.18(1) A complete change of bed linen shall be provided at least once a week and more often if necessary. (III)

57.18(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

57.18(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

57.18(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

57.18(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.19(135C) Drugs.**57.19(1) Drug storage.**

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access. Monitoring of the storage, administration and documentation by the resident shall be carried out by a person who meets the requirements of subrule 57.19(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

- (1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)
- (2) A bathroom shall not be used for drug storage. (III)
- (3) The drug storage shall be kept locked when not in use. (III)
- (4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)
- (5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)
- (6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)
- (7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs, shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom, and shall be made accessible only to authorized persons. (I, II)

(9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

57.19(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period the resident will be on leave from the facility

may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

57.19(3) *Drug administration—authorized personnel.*

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or shall have successfully completed a department-approved medication aide course and passed a department-approved medication aide challenge examination administered by an area community college. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)

(2) Have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. The person shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 57.19(3) "*d*" do not apply to this person. (III)

g. In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

57.19(4) *Drug administration.*

a. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 57.19(4) "*b*" or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

- (4) Include the name of the person authorized to administer the insulin,
- (5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

57.20(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

57.20(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

57.20(4) Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.21(135C) Dietary.

57.21(1) Dietary staffing.

a. A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

b. If the person is in the process of completing the food protection program in paragraph 57.21(1) "a," the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

c. In addition to the requirement of paragraph 57.21(1) "a," personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

57.21(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

c. At least three meals or their equivalent shall be served daily, at regular hours. (II, III)

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

d. Menus shall include a variety of foods prepared in various ways. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. The facility shall provide an alternative choice at scheduled meal times. (III)

57.21(3) Dietary storage, food preparation, and service.

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

57.21(4) Sanitation in food preparation area.

a. In facilities licensed for more than 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

b. There shall be written procedures established for cleaning all work and serving areas in facilities with more than 15 beds. (III)

c. A schedule for duties to be performed daily shall be posted in each food area. (III)

d. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (II, III)

e. The food service area shall be located so it will not be used as a passageway by residents, guests, or non-food service staff. (III)

f. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless the linen is in sealed, leakproof containers. (III)

g. In facilities with more than 15 beds, a mechanical dishwasher is required. (III)

h. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.22(135C) Orientation and service plan.

57.22(1) Orientation. Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall

not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

57.22(2) *Initial service plan.* Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 57.22(3) is complete. (I, II, III)

57.22(3) *Service plan.* Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident, the resident's responsible party, the interdisciplinary team, and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.23(135C) Resident activities program.

57.23(1) *Activities program.* Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. The facility shall offer at least two organized evening group activities per week and two organized weekend group activities per month. (III)

a. The activities program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The activities program shall include measureable goals for each resident. (III)

c. The activities program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not required, to participate in activities. (III)

57.23(2) *Coordination of activities program.*

a. Each residential care facility with 15 or fewer beds shall designate a person to oversee the activities program, develop goals and monitor progress. (III)

b. Each residential care facility with more than 15 beds shall employ a person to direct the activities program. (III)

c. Staffing for the activities program shall be provided on the minimum basis of 45 minutes per resident per week. (II, III)

d. The activities coordinator shall have completed the activities coordinator orientation course approved by the department within six months of employment or have comparable training and experience as approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activities coordinator is absent during scheduled working hours. (III)

57.23(3) Duties of activities coordinator. The activities coordinator shall:

- a. Have access to all residents' records. (III)
- b. Coordinate all activities, including volunteer or auxiliary activities and religious services. (III)
- c. Keep all necessary records including:
 - (1) Attendance records; (III)
 - (2) Individual resident progress notes, recorded at least every three months; (III)
 - (3) Monthly calendars, prepared in advance, updated as necessary and maintained for one year. (III)
- d. Coordinate the activities program with all other services in the facility. (III)

57.23(4) Supplies, equipment, and storage.

- a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)
- b. Storage shall be provided for recreational equipment and supplies. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.24(135C) Residents' rights.

57.24(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

57.24(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

- a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)
- b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)
- c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)
- d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and
- e. Include methods of recording grievances and actions taken. (II, III)

57.24(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

57.24(4) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

- a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

- b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II, III)

- c. A statement shall be signed by the resident, or the resident's responsible party, if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

57.24(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

57.24(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

57.24(7) Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

57.24(8) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

57.24(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation Prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

57.24(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.25(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

57.25(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

57.25(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

57.25(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

57.25(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

57.25(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.26(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

57.26(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

57.26(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor(s). (II)

b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

57.26(3) Decisions to restrict a visitor are reviewed and reevaluated:

a. Each time the medical orders are reviewed by the primary care provider;

b. At least quarterly by the facility's staff; or

c. At the resident's request. (II)

57.26(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

57.26(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

57.26(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.26(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or facility administrator for refusing permission. (II)

57.26(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.27(135C) Resident activities.

57.27(1) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

57.27(2) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.28(135C) Resident property.

57.28(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

57.28(2) The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

57.28(3) Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.29(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.29(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

57.29(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.29(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

57.29(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

57.29(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

57.29(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or the local law enforcement agency, as appropriate. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.30(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

57.30(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

57.30(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.31(135C) Family—shared rooms. Family members or spouses shall be permitted to share a room, if available, if requested by both parties, unless the primary care provider of one of the parties documents in the medical record specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.32(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

57.32(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

57.32(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

57.32(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

57.32(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.33(135C) Crisis intervention. If a facility utilizes physical restraints, there shall be written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, and establish a mechanism for monitoring and controlling their use. (I, II)

57.33(1) Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

- a. An emergency to prevent injury to the resident or to others; or (I, II)
- b. For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and
- c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

57.33(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

57.33(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

57.33(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

57.33(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

57.33(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

- a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)
- b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)
- c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

57.33(7) Residents shall not be kept behind locked doors. (I, II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.34(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

57.34(1) *Fire safety.*

- a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)
- b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

57.34(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

- a. The plan shall be prominently posted in a common area of the building. (III)
- b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

57.34(3) *Resident safety.*

- a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)
- b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
- c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)
- d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)

- e.* Sufficient numbers of noncombustible trash containers with covers shall be available. (III)
- f.* Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

57.34(4) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.35(135C) Housekeeping.

57.35(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.35(2) Each resident room shall be cleaned on a routine schedule. (III)

57.35(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)

57.35(4) A hallway or corridor shall not be used for storage of equipment. (II, III)

57.35(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.35(6) Clothing worn by personnel shall be clean and washable. (III)

57.35(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

57.35(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

57.35(9) Polishes used on floors shall provide a nonslip finish. (II, III)

57.35(10) Throw or scatter rugs shall have nonskid backing. (II, III)

57.35(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.36(135C) Maintenance.

57.36(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities with more than 15 beds, the maintenance program shall be established in writing and available for review by the department. (II, III)

57.36(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

57.36(3) Window treatments and furniture shall be clean and in good repair. (II, III)

57.36(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)

57.36(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

57.36(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

57.36(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

57.36(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

57.36(9) The facility shall be kept free of flies, other insects, and rodents. (II, III)

57.36(10) Janitor's closet.

a. Facilities shall be provided with storage for cleaning equipment and supplies. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for more than 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.37(135C) Laundry.

57.37(1) All soiled linens shall be collected and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.37(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.37(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.37(4) Residents' personal laundry shall be marked with an identification if comingled with other residents' personal laundry. (III)

57.37(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.37(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities with more than 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.38(135C) Garbage and waste disposal.

57.38(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.38(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

57.38(3) All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.38(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.39(135C) Supplies.

57.39(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Adequate storage shall be provided for linens, pillows, and bedding. (III)

57.39(2) *Supplies, equipment and storage.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

c. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

d. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.40(135C) Buildings, furnishings, and equipment.

57.40(1) *Buildings—general requirements.*

a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

57.40(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident. (III)

57.40(3) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)

c. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

57.40(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)

f. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

g. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)

h. There shall be no more than four residents per room. (III)

57.40(5) *Bath and toilet facilities.*

a. All sinks shall have paper towel dispensers and an available supply of soap. (III)

b. Toilet paper shall be readily available to residents. (III)

57.40(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

57.40(7) *Water supply.*

a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

d. Hot and cold running water under pressure shall be available in the facility. (II, III)

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.41(135C) Family and employee accommodations.

57.41(1) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

57.41(2) In all facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.42(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.43(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal. (I, II, III)

57.43(1) To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs 57.43(2) “a” through “j.” (I, II, III)

57.43(2) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a. Health and safety risks for residents;
- b. Compatibility of the proposed business or activity with the facility program;
- c. Noise created by the proposed business or activity;
- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

57.43(3) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.43(4) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.44(135C) Respite care services. “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care services” does not include crisis stabilization services provided pursuant to 2014 Iowa Acts, chapter 1044 (to be codified at Iowa Code section 225C.19A). “Respite care individual” means a person receiving respite care services. A residential care facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility. (II, III)

57.44(1) Length of stay. Respite care may be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay at the facility. (II, III)

57.44(2) *No separate license.* A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.44(3) *Involuntary termination of respite services.* The facility may terminate the respite services for a respite care individual. Rule 481—57.14(135C) shall not apply. The facility shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite services, including notification of the respite care individual's family or legal representative. (II, III)

57.44(4) *Contract.* Pursuant to rule 481—57.15(135C), the facility shall have a contract with each resident in the facility. When an individual is there for respite care services, the contract shall specify the time period during which the individual will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state that respite care services may be involuntarily terminated. The contract shall meet other requirements under rule 481—57.15(135C), except the requirements under subrule 57.15(7). (II, III)

57.44(5) *Admission as a resident.*

a. An individual being cared for under a respite care contract shall not be considered an admission to the facility.

b. A respite care individual shall be included in the facility's census.

c. The facility shall not enter into multiple 30-day contracts with an individual being cared for under a respite care contract in order to lengthen the individual's stay at the facility. (II, III)

d. If an individual being cared for under a respite care contract remains in the facility beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a resident in the facility. The facility shall follow all requirements for the individual's admission to the facility. (II, III)

57.44(6) *Level of care.* Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide. (I, II, III)

57.44(7) *Reporting requirements.* The reporting requirements of rule 481—50.7(135C) shall apply to residents being cared for under a respite care contract. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code section 135C.14.

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]

[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]

[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]

[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]

[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]¹

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]²

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]

[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]^o

[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]

[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]

[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]

[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]

[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
 [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
 [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
 [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
 [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
 [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
 [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
 [Filed 5/21/93, Notice 11/25/92—published 6/9/93, effective 7/14/93]³
 [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
 [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
 [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
 [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
 [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
 [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
 [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
 [Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
 [Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
 [Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
 [Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
 [Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
 [Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
 [Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
 [Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
 [Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
 [Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
 [Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1476C (Notice ARC 1413C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]
 [Filed ARC 1753C (Notice ARC 1649C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
 [Filed ARC 2273C (Notice ARC 2162C, IAB 9/30/15), IAB 12/9/15, effective 1/13/16]

⁰ Two or more ARCs

¹ Effective date of 470—57.15(2) “a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

² See IAB, Inspections and Appeals Department.

³ Effective date of 481—57.12(2) “a,” last paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.

IOWA PUBLIC INFORMATION BOARD[497]**CHAPTER 1****ORGANIZATION AND GENERAL ADMINISTRATION**

- 1.1(23) Board description
- 1.2(23) Requirements for requesting board advisory opinions
- 1.3(23) Processing of advisory opinion requests
- 1.4(23) Conflict of interest

CHAPTER 2**COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES**

- 2.1(23) Complaints
- 2.2(23) Investigations—board action
- 2.3(23) Civil penalties and other appropriate remedies
- 2.4(23) Settlements

CHAPTER 3**DECLARATORY ORDERS**

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.10(17A) Contents of declaratory order—effective date
- 3.11(17A) Copies of orders
- 3.12(17A) Effect of a declaratory order

CHAPTER 4**CONTESTED CASES**

- 4.1(17A) Scope and applicability
- 4.2(17A) Definitions
- 4.3(17A) Time requirements
- 4.4(17A) Notice of hearing
- 4.5(17A) Presiding officer
- 4.6(17A) Waiver of procedures
- 4.7(17A) Telephone proceedings
- 4.8(17A) Disqualification
- 4.9(17A) Consolidation—severance
- 4.10(17A) Pleadings
- 4.11(17A) Service and filing of pleadings and other papers
- 4.12(17A) Discovery
- 4.13(17A) Subpoenas
- 4.14(17A) Motions
- 4.15(17A) Prehearing conference
- 4.16(17A) Continuances
- 4.17(17A) Withdrawals
- 4.18(17A) Intervention
- 4.19(17A) Hearing procedures
- 4.20(17A) Evidence

4.21(17A)	Default
4.22(17A)	Ex parte communication
4.23(17A)	Recording costs
4.24(17A)	Interlocutory appeals
4.25(17A)	Final decision
4.26(17A)	Appeals and review
4.27(17A)	Applications for rehearing
4.28(17A)	Stays of agency actions
4.29(17A)	No factual dispute contested cases

CHAPTER 5 PETITIONS FOR RULE MAKING

5.1(17A)	Petition for rule making
5.2(17A)	Briefs
5.3(17A)	Inquiries
5.4(17A)	Board consideration

CHAPTER 6 AGENCY PROCEDURE FOR RULE MAKING

6.1(17A)	Applicability
6.2(17A)	Advice on possible rules before notice of proposed rule adoption
6.3(17A)	Public rule-making docket
6.4(17A)	Notice of proposed rule making
6.5(17A)	Public participation
6.6(17A)	Regulatory analysis
6.7(17A)	Fiscal impact statement
6.8(17A)	Time and manner of rule adoption
6.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
6.10(17A)	Exemptions from public rule-making procedures
6.11(17A)	Concise statement of reasons
6.12(17A)	Contents, style, and form of rule
6.13(17A)	Agency rule-making record
6.14(17A)	Filing of rules
6.15(17A)	Effectiveness of rules prior to publication
6.16(17A)	General statements of policy
6.17(17A)	Review by agency of rules

CHAPTER 7 FAIR INFORMATION PRACTICES

7.1(17A,22)	Definitions
7.2(17A,22)	Statement of policy
7.3(17A,22)	Requests for access to board records
7.4(17A,22)	Procedures for access to confidential records
7.5(17A,22)	Requests for treatment of a government record as a confidential record and its withholding from examination by the board
7.6(17A,22)	Procedure by which additions, dissents or objections may be entered into certain records
7.7(17A,22)	Consensual disclosure of confidential records
7.8(17A,22)	Routine use
7.9(17A,22)	Disclosures without the consent of the subject
7.10(17A,22)	Release to subject
7.11(17A,22)	Availability of records
7.12(17A,22)	Personally identifiable information

- 7.13(17A,22) Other groups of records available for public inspection—policies and procedures
(excluding security), meeting minutes
- 7.14(17A,22) Applicability

CHAPTER 8
OPEN MEETINGS

- 8.1(21,23) Notice

CHAPTER 9
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 9.1(17A) Definition
- 9.2(17A) Scope of chapter
- 9.3(17A) Applicability
- 9.4(17A) Criteria for waiver
- 9.5(17A) Filing of petition
- 9.6(17A) Content of petition
- 9.7(17A) Additional information
- 9.8(17A) Notice
- 9.9(17A) Hearing procedures
- 9.10(17A) Ruling
- 9.11(17A) Public availability
- 9.12(17A) Summary reports
- 9.13(17A) Cancellation of waiver
- 9.14(17A) Defense
- 9.15(17A) Appeals

CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

497—1.1(23) Board description.

1.1(1) The Iowa public information board is established by Iowa Code chapter 23 and consists of nine members, including a chairperson.

1.1(2) The term “board” shall mean the Iowa public information board.

1.1(3) Board members are appointed by the governor for staggered terms of four years and are subject to confirmation by the senate. No more than three members appointed shall be representatives from the media, including newspapers, and no more than three members appointed shall be representatives of cities, counties, and other political subdivisions of the state.

1.1(4) On an annual basis at the board’s first meeting on or after July 1, the members shall elect a chairperson and vice chair. The board shall also employ a person who shall be an attorney admitted to practice law before the courts of Iowa to serve as the executive director of the board. The chairperson and vice chair may be reelected or elected to a different office. If the chairperson is absent, the vice chair shall act as chairperson.

1.1(5) Vacancies on the board are filled in the same manner as regular appointments. Appointees who fill vacancies serve for the balance of the term.

1.1(6) The board shall meet at least quarterly and at the call of the chairperson.

1.1(7) Five board members constitute a quorum for conducting board business.

1.1(8) The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board’s Web site at <https://ipib.iowa.gov/>. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules 497—1.2(23) and 497—1.3(23)) or by declaratory orders (see rules 497—3.1(17A) to 497—3.8(17A)). In addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(23).

This rule is intended to implement Iowa Code chapter 23.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 1091C, IAB 10/16/13, effective 11/20/13; ARC 2271C, IAB 12/9/15, effective 1/13/16]

497—1.2(23) Requirements for requesting board advisory opinions.

1.2(1) *Jurisdiction.* The board will only issue advisory opinions pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

1.2(2) *Who may request an advisory opinion.* Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, 22, and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

1.2(3) *Form of request.* The request for an advisory opinion shall pose specific legal questions and should describe any specific facts relating to the questions posed. Requests shall be sent to the board as provided in subrule 1.3(1).

This rule is intended to implement Iowa Code section 23.6.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2088C, IAB 8/5/15, effective 9/9/15]

497—1.3(23) Processing of advisory opinion requests.

1.3(1) Requests for board advisory opinions may be mailed to the Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Requests may also be submitted by fax to (515)725-1789 or by e-mail to ipib@iowa.gov.

1.3(2) After receiving an opinion request, the board's executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

1.3(3) A person who receives a board advisory opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The board may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion. The board aspires to issue an opinion within 30 days after a formal request is made.

1.3(4) Board advisory opinions are open records and shall be made available at the board office and via the board's Web site at <https://ipib@iowa.gov/>.

1.3(5) Nothing in this rule precludes a person who has received a board opinion or advice from petitioning for a declaratory order pursuant to Iowa Code section 17A.9. The board may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the board opinion.

1.3(6) On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 1091C, IAB 10/16/13, effective 11/20/13; ARC 2088C, IAB 8/5/15, effective 9/9/15]

497—1.4(23) Conflict of interest.

1.4(1) Definition. "Conflict of interest" means that a board member, an employee of the board, a board member's immediate family, or an immediate family member of an employee of the board has a significant personal, financial, or employment relationship with: a person who has requested an advisory opinion; a person who has petitioned for a declaratory order; a complainant; or a government employee or official or a governmental body that would be directly impacted by an advisory opinion, a declaratory order, or a complaint. For purposes of this rule, "immediate family" means the same as "immediate family members" in Iowa Code section 68B.2(11).

1.4(2) Procedures. As soon as a member of the board or an employee of the board becomes aware of a conflict of interest, the member or employee of the board shall follow these procedures:

a. If the conflict is known before a meeting, the member or employee of the board shall fully disclose the interest to the chairperson of the board in writing at least 24 hours before the meeting.

b. If the conflict is discovered during a meeting, the member or employee of the board shall orally inform the board, and the nature of the conflict shall be reported in writing to the chairperson of the board within 24 hours after the meeting.

c. The board member or employee of the board who has the conflict shall not participate in discussion or vote on any advisory opinion, declaratory order, or complaint.

1.4(3) State code of ethics. Board members and employees of the board shall comply with the state code of ethics found in Iowa Code chapter 68B and in the corresponding administrative rules adopted by the Iowa ethics and campaign disclosure board.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2090C, IAB 8/5/15, effective 9/9/15]

This rule is intended to implement Iowa Code sections 23.6 and 68B.2A.

[Filed ARC 0741C (Notice ARC 0644C, IAB 3/20/13), IAB 5/15/13, effective 7/1/13]

[Filed Without Notice ARC 1091C, IAB 10/16/13, effective 11/20/13]

[Filed ARC 2090C (Notice ARC 2013C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]

[Filed ARC 2088C (Notice ARC 2012C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]
[Filed ARC 2271C (Notice ARC 2093C, IAB 8/5/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 1 ORGANIZATION

[Prior to 4/18/90, Public Defense Department[650], Ch 5]

[Prior to 5/12/93, Disaster Services Division[607], Ch 1]

605—1.1(29C) Description. The homeland security and emergency management department is created in Iowa Code chapter 29C. The homeland security and emergency management department shall be under the management of a director appointed by the governor. The director shall be vested with the authority to administer homeland security and emergency management affairs in this state and shall be responsible for preparing and executing the homeland security and emergency management programs of this state subject to the direction of the governor. The director, upon the direction of the governor, shall: prepare a comprehensive plan and emergency management program for homeland security, disaster preparedness, response, mitigation, recovery, emergency operation, and emergency resource management of this state; make such studies and surveys of the industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for disaster recovery, disaster planning and operations, and emergency resource management, and to plan for the most efficient emergency use thereof; provide technical assistance to any local emergency management commission or joint commission requiring such assistance in the development of an emergency management program; and implement planning and training for emergency response teams as mandated by the federal government under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 42 U.S.C. § 9601 et seq. The director, with the approval of the governor, may employ a deputy administrator and such technical, clerical, stenographic and other personnel and make such expenditures within the appropriation or from other funds made available to the department for purposes of homeland security and emergency management, as may be necessary to administer the purposes of Iowa Code chapters 29C, 30, and 34A. [ARC 8932B, IAB 7/14/10, effective 8/18/10; ARC 2292C, IAB 12/9/15, effective 1/13/16]

605—1.2(29C) Definitions. The following definitions are applicable to the homeland security and emergency management department:

“Comprehensive countywide emergency operations plan” means documents which describe the actions to be taken to lessen the effects of, prepare for, respond to and recover from a disaster by county and city governments, quasi-government agencies, and private organizations which have emergency operations responsibility. The plan is multihazard in scope (covers all hazards for the county) and provides for a coordinated effort. It references authority, assigns functional responsibilities, provides for direction and control, and the effective use of resources.

“Department” means the homeland security and emergency management department.

“Director” means the director of the homeland security and emergency management department.

“Disaster” means human-caused, technological or natural occurrences, such as fire, flood, drought, earthquake, tornado, windstorm, hazardous substance or nuclear power plant accident or incident, which threaten the public peace, health and safety of the people or which damage or destroy public or private property. The term includes terrorism, enemy attack, sabotage, or other hostile action from without the state.

“Emergency” means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action to protect life or property. Such actions are normally handled in a routine manner by law enforcement, fire protection, public works, utilities, and emergency medical services.

“Emergency management” means lessening the effects of, preparations for, operations during, and recovery from natural, technological or human-caused disasters. These actions are broad in scope and include, but are not limited to: disaster plans, mitigation, preparedness, response, warning, emergency operations, training, exercising, research, rehabilitation, and recovery activities.

“Emergency management performance grant program” means a program by which federal funds are utilized to pay no more than 50 percent of the salaries, benefits, travel, and office expenses incurred in the administration of the state and local emergency management program.

“Homeland security” means the detection, prevention, preemption, and deterrence of and protection from attacks targeted at state territory, population, and infrastructure.

“Joint commissions” means two or more local emergency management commissions acting as a joint commission for the coordination and administration of emergency management.

“Local commission” means the local emergency management commission.

“Mitigation” means any action taken to reduce or eliminate the long-term risk to human life and property from hazards. Examples of mitigation activities include building codes, land use management, floodplain management, building of protective structures such as flood walls, public education, research, risk mapping, safety codes, and statutes and ordinances.

“Preparedness” means any activity taken in advance of an emergency or disaster that improves emergency readiness posture and develops or expands operational capabilities. Examples of preparedness activities include, but are not limited to, continuity of government, emergency alert and warning systems, emergency communications, emergency operations centers, comprehensive countywide emergency operations plans, emergency public information materials, exercise of plans and systems, hazard analysis, mutual aid agreements, resource management, and the training and equipping of personnel.

“Recovery” means short-term activity to return vital life support systems to minimum operating standards and long-term activity designed to return the affected people and areas to their predisaster conditions. Examples of recovery activity are crisis counseling, damage assessment, debris clearance, decontamination, disaster insurance payments, disaster loans and grants, disaster unemployment assistance, public information, community outreach, temporary housing, and reconstruction.

“Response” means any action taken immediately before, during, or directly after an emergency or disaster occurs, which is intended to save lives, minimize injuries, lessen property and environmental damage and enhance the effectiveness of recovery. Examples of response activity include rendering of assistance by emergency responders, activation of the emergency operations center, emergency alert system activation, emergency instructions to the public, emergency plan implementation, public official alerting, evacuation, sheltering of victims, search and rescue, resource mobilization, and warning system activation.

[ARC 8932B, IAB 7/14/10, effective 8/18/10; ARC 2292C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapters 29C, 30 and 34A.

[Filed 4/29/77, Notice 1/12/77—published 5/18/77, effective 6/22/77]

[Filed 3/20/90, Notice 2/7/90—published 4/18/90, effective 5/23/90]

[Filed 4/22/93, Notice 3/17/93—published 5/12/93, effective 6/16/93]

[Filed 7/18/00, Notice 5/17/00—published 8/9/00, effective 9/13/00]

[Filed Without Notice ARC 8932B, IAB 7/14/10, effective 8/18/10]

[Filed ARC 2292C (Notice ARC 2187C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 2 PETITIONS FOR RULE MAKING

605—2.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the department at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324. A petition is deemed filed when it is received by that office. The department must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT	
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	<div style="font-size: 4em; line-height: 1;">}</div> <div style="text-align: left; padding-top: 10px;"> PETITION FOR RULE MAKING </div>

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the department's authority to take the action urged or to the desirability of that action.
3. A brief summary of the petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided by rule 605—2.4(17A).

2.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

2.1(2) The homeland security and emergency management department may deny a petition because it does not substantially conform to the required form.

[ARC 8933B, IAB 7/14/10, effective 8/18/10; ARC 2293C, IAB 12/9/15, effective 1/13/16]

605—2.2(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The homeland security and emergency management department may request a brief from the petitioner or from any other person concerning the substance of the petition.

[ARC 8933B, IAB 7/14/10, effective 8/18/10; ARC 2293C, IAB 12/9/15, effective 1/13/16]

605—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Director, Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324.

[ARC 8933B, IAB 7/14/10, effective 8/18/10; ARC 2293C, IAB 12/9/15, effective 1/13/16]

605—2.4(17A) Consideration.

2.4(1) Within 14 days after the filing of a petition, the department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the homeland security and emergency management department must schedule a brief and informal meeting between the petitioner and the department, a member of the department, or a member of the staff of the department to discuss the petition. The homeland security and emergency management department may request the petitioner to submit additional information or argument concerning the petition. The department may also solicit

comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the homeland security and emergency management department by any person.

2.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the homeland security and emergency management department must, in writing, deny the petition and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the department mails or delivers the required notification to petitioner.

2.4(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the department's rejection of the petition.

[ARC 8933B, IAB 7/14/10, effective 8/18/10; ARC 2293C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 7/18/90, Notice 6/13/90—published 8/8/90, effective 9/12/90]

[Filed 4/22/93, Notice 3/17/93—published 5/12/93, effective 6/16/93]

[Filed 7/18/00, Notice 5/17/00—published 8/9/00, effective 9/13/00]

[Filed Without Notice ARC 8933B, IAB 7/14/10, effective 8/18/10]

[Filed ARC 2293C (Notice ARC 2188C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 3 DECLARATORY ORDERS

605—3.1(17A) Petition for declaratory order. Any person may file a petition with the homeland security and emergency management department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department at Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324. A petition is deemed filed when it is received by that office. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	<div style="font-size: 4em; line-height: 1;">}</div> <div style="text-align: right; padding-right: 10px;"> PETITION FOR DECLARATORY ORDER </div>

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 3.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the homeland security and emergency management department shall give notice of the petition to all persons not served by the petitioner pursuant to 605—3.6(17A) to whom notice is required by any provision of law. The department may also give notice to any other persons.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.3(17A) Intervention.

3.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

3.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the homeland security and emergency management department.

3.3(3) A petition for intervention shall be filed at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324. Such a

petition is deemed filed when it is received by that office. The department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT	
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The homeland security and emergency management department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Director, Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.6(17A) Service and filing of petitions and other papers.

3.6(1) When service required. Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

3.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

3.6(3) Method of service, time of filing, and proof of mailing. Method of service, time of filing, and proof of mailing shall be as provided by rule 605—6.12(17A).

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.7(17A) Consideration. Upon request by petitioner, the homeland security and emergency management department must schedule a brief and informal meeting between the original petitioner, all intervenors, and the department, a member of the department, or a member of the staff of the department, to discuss the questions raised. The department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.8(17A) Action on petition.

3.8(1) Within the time allowed by Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the director or designee shall take action on the petition as required by Iowa Code section 17A.9(5).

3.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in rule 605—6.2(17A).

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.9(17A) Refusal to issue order.

3.9(1) The homeland security and emergency management department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue an order.
3. The department does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the homeland security and emergency management department to determine whether a statute is unconstitutional on its face.

3.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final department action on the petition.

3.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

605—3.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

605—3.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

605—3.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the homeland security and emergency management department, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the homeland security and emergency management department. The issuance of a declaratory order constitutes final agency action on the petition.

[ARC 2294C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 7/18/90, Notice 6/13/90—published 8/8/90, effective 9/12/90]

[Filed 4/22/93, notice 3/17/93—published 5/12/93, effective 6/16/93]

[Filed 7/18/00, Notice 5/17/00—published 8/9/00, effective 9/13/00]

[Filed ARC 2294C (Notice ARC 2189C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

605—4.1(17A) Adoption by reference. The homeland security and emergency management department hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure, which are found on the general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf> and which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(commission, board, council, director)” insert “director”.
2. In lieu of the words “(specify time period)” insert “one year”.
3. In lieu of the words “(identify office and address)” insert “Director, Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324”.
4. In lieu of the words “(designate office and telephone number)” insert “the director at (515)725-3231”.
5. In lieu of the words “(designate office)” insert “Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324”.
6. In lieu of the words “(specify the office and address)” insert “Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324”.
7. In lieu of the words “(agency head)” insert “director”.

[ARC 2295C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 4/29/77, Notice 1/12/77—published 5/18/77, effective 6/22/77]

[Filed 7/18/90, Notice 6/13/90—published 8/8/90, effective 9/12/90]

[Filed 4/22/93, Notice 3/17/93—published 5/12/93, effective 6/16/93]

[Filed 7/18/00, Notice 5/17/00—published 8/9/00, effective 9/13/00]

[Filed ARC 2295C (Notice ARC 2190C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

[Prior to 11/5/86, Public Employment Relations Board [660]]

CHAPTER 1**GENERAL PROVISIONS**

- 1.1(20) Construction and severability
- 1.2(20) General agency description
- 1.3(20) General course and method of operation
- 1.4(20) Method of obtaining information and making submissions or requests
- 1.5(20) Petition for rule making
- 1.6(20) Definitions
- 1.7(20) Computation of time
- 1.8 Reserved
- 1.9(17A,20) Waiver or variance of rules
- 1.10(20) Agency record and files

CHAPTER 2**GENERAL PRACTICE AND HEARING PROCEDURES**

- 2.1(20) Hearing—time and place—administrative law judge
- 2.2(20) Notice of hearing—contents
- 2.3(20) Default
- 2.4(20) Intervention and additional parties
- 2.5(20) Continuance
- 2.6(20) Appearances and conduct of parties
- 2.7(20) Evidence—objections
- 2.8(20) Order of procedure
- 2.9(20) Amendments
- 2.10(20) Briefs and arguments
- 2.11(20) Sequestration of witnesses
- 2.12(20) Subpoenas
- 2.13(20) Form of documents and treatment of confidential or protected information
- 2.14(20) Captions
- 2.15(20) Service of pleadings and other papers
- 2.16(20) Consolidation
- 2.17(20) Prohibition against testimony of mediators, arbitrators and board employees
- 2.18(20) Delivery of decisions and orders
- 2.19(20) Stays of agency action
- 2.20(20) Ex parte communications
- 2.21(20) Transcripts of record
- 2.22(20) Dismissal
- 2.23(20) Informal disposition
- 2.24(20) Evidence of settlement negotiations

CHAPTER 3**PROHIBITED PRACTICE PROCEEDINGS**

- 3.1(20) Filing of complaint
- 3.2(20) Contents of complaint
- 3.3(20) Clarification of complaint
- 3.4(20) Service of complaint
- 3.5(20) Answer to complaint
- 3.6(20) Voluntary dismissal or withdrawal of complaint
- 3.7 Reserved

- 3.8(20) Investigation of complaint
- 3.9 to 3.11 Reserved
- 3.12(20) Costs of certified shorthand reporters and transcripts

CHAPTER 4 BARGAINING UNIT AND BARGAINING REPRESENTATIVE DETERMINATION

- 4.1(20) General procedures
- 4.2(20) Unit determination
- 4.3(20) Bargaining representative determination (election petitions)
- 4.4(20) Concurrent (combined) petitions
- 4.5(20) Unit reconsideration
- 4.6(20) Amendment of unit
- 4.7(20) Unit clarification
- 4.8(20) Amendment of certification

CHAPTER 5 ELECTIONS

- 5.1(20) General procedures
- 5.2(20) Conduct of election
- 5.3(20) Election results—tally of ballots
- 5.4(20) Postelection procedures
- 5.5(20) Bars to an election
- 5.6(20) Decertification elections
- 5.7(20) Disclaimer
- 5.8(20) Destruction of ballots

CHAPTER 6 NEGOTIATIONS AND NEGOTIABILITY DISPUTES

- 6.1(20) Scope of negotiations
- 6.2(20) Consolidated negotiations
- 6.3(20) Negotiability disputes
- 6.4(20) Voluntary settlement procedures
- 6.5(20) Filing of agreement

CHAPTER 7 IMPASSE PROCEDURES

- 7.1(20) General
- 7.2(20) Fees of neutrals
- 7.3(20) Mediation
- 7.4 Reserved
- 7.5(20) Binding arbitration
- 7.6(20) Impasse procedures after completion deadline
- 7.7(20) Impasse procedures for state employees

CHAPTER 8 INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

- 8.1(20) Registration report
- 8.2(20) Annual report
- 8.3(20) Bonding requirements
- 8.4(20) Trusteeships
- 8.5(20) Reports as public information
- 8.6(20) Filing of a complaint

CHAPTER 9
ADMINISTRATIVE REMEDIES

- 9.1(20) Final decisions
- 9.2(20) Appeals to board

CHAPTER 10
DECLARATORY ORDERS

- 10.1(17A,20) Who may petition
- 10.2(20) Contents of petition
- 10.3(17A,20) Caption
- 10.4(17A,20) Notice of petition
- 10.5(17A,20) Intervention
- 10.6(17A,20) Briefs
- 10.7(17A,20) Service of petitions and other papers
- 10.8(17A,20) Action on petition
- 10.9(17A,20) Refusal to issue order
- 10.10(17A,20) Copies of orders

CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS
AND DISCIPLINARY ACTIONS

- 11.1(19A,20) Notice of appeal rights
- 11.2(19A,20) Filing of appeal
- 11.3(19A,20) Content of the appeal
- 11.4(19A,20) Content of director's answer to the appeal
- 11.5(19A,20) Right to a hearing
- 11.6(19A,20) Witnesses
- 11.7(19A,20) Finality of decision
- 11.8(19A,20) Review by board
- 11.9(19A,20) Other rules
- 11.10(19A,20) Applicability

CHAPTER 12
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

- 12.1(20,22) Definitions
- 12.3(20,22) Requests for access to records
- 12.6(20,22) Procedure by which additions, dissents or objections may be entered into certain records
- 12.9(20,22) Disclosures without the consent of the subject
- 12.10(20,22) Routine use
- 12.11(20,22) Consensual disclosure of confidential records
- 12.12(20,22) Release to subject
- 12.13(20,22) Availability of records
- 12.14(20,22) Data processing systems
- 12.15(20,22) Applicability

CHAPTER 13
MEDIATORS

- 13.1(20) Scope and authority
- 13.2(20) Definitions
- 13.3(20) List and status of members
- 13.4(20) Mediator listing

- 13.5(20) Independent contractor agreement
- 13.6(20) Conflict of interest
- 13.7(20) Confidentiality
- 13.8(20) Complaints
- 13.9(20) Inactive status

CHAPTER 14 ARBITRATORS

- 14.1(20) Scope
- 14.2(20) Definitions
- 14.3(20) Roster and status of members
- 14.4(20) Fees of arbitrators
- 14.5(20) Arbitrator roster
- 14.6(20) Interest arbitrator mentorship program
- 14.7(20) Biography
- 14.8(20) Conflict of interest
- 14.9(20) Procedures for discipline and removal
- 14.10(20) Inactive status

CHAPTER 15 Reserved

CHAPTER 16

ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

- 16.1(20) Effective date and scope
- 16.2(20) Definitions
- 16.3(20) Registration, username, and passwords
- 16.4(20) Mandatory electronic filing and exceptions
- 16.5(20) Filing of paper documents
- 16.6(20) Date and time of filing
- 16.7(20) Signatures
- 16.8(20) Format and redaction of electronic documents
- 16.9(20) Exhibits and other attachments
- 16.10(20) Service
- 16.11(20) Discovery
- 16.12(20) Transcripts, briefs and exhibits

CHAPTER 6
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

621—6.1(20) Scope of negotiations. The scope of negotiations shall include the mandatory subjects of collective bargaining as provided in Iowa Code section 20.9. “Permissive” matters are all other subjects upon which bargaining is not prohibited. Either party may introduce permissive matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; however, no party is required to negotiate on permissive subjects of bargaining. Unresolved permissive matters shall be excluded from arbitration unless submission of the matter has been mutually agreed upon by the parties. Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16]

621—6.2(20) Consolidated negotiations. Nothing in these rules shall prohibit, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative, or any other combination thereof.

621—6.3(20) Negotiability disputes.

6.3(1) Defined. A “negotiability dispute” is a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject of collective bargaining under Iowa Code section 20.9.

6.3(2) Petitions for expedited resolution.

a. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the following:

- (1) The name and address of the petitioner and the name, address, telephone number, and e-mail address of the petitioner’s representative;
- (2) The name and address of the respondent and the name, address, telephone number, and e-mail address of the respondent’s representative;
- (3) The material facts of the dispute; and
- (4) The verbatim text of the proposal at issue.

b. The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1).

6.3(3) Preliminary ruling. The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties may file briefs in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

6.3(4) Final ruling. Within 20 days following the issuance of a preliminary ruling, either party may request the agency to issue a final ruling, which will set forth the agency’s analysis and conclusions.

6.3(5) Arbitration. Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall state that the objecting party will file a petition for resolution of the dispute with the agency, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the agency. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the agency’s determination.

6.3(6) *Negotiability outside of bargaining.* Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes within the scope of this rule but may be posed to the agency by a petition for declaratory order filed pursuant to 621—Chapter 10.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 2308C, IAB 12/9/15, effective 1/13/16]

621—6.4(20) Voluntary settlement procedures.

6.4(1) *Terms made public.* Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of the agreement public.

6.4(2) *Ratification or rejection by employee organization.* Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization shall be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether or not the proposed agreement has been ratified.

6.4(3) *Acceptance or rejection by public employer.* The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; however, the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

6.4(4) *Time limits.*

a. The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

b. The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16]

621—6.5(20) Filing of agreement. Not later than 60 days after ratification and acceptance of a tentative agreement or the issuance of an interest arbitration award, the public employer shall submit the collective bargaining agreement to the agency.

[ARC 2308C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]

[Filed 10/29/76, Notice 9/22/76—published 11/17/76, effective 12/22/76]

[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]

[Filed 2/3/78, Notice 12/28/77—published 2/22/78, effective 3/29/78]

[Filed 9/11/79, Notice 7/11/79—published 10/3/79, effective 11/12/79]

[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]

[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]

[Filed emergency 7/23/85—published 8/14/85, effective 7/23/85]

[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]

[Filed Without Notice ARC 8953B, IAB 7/28/10, effective 9/1/10]

[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]

[Filed ARC 2308C (Notice ARC 2191C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

PUBLIC HEALTH DEPARTMENT[641]

Rules of divisions under this department “umbrella” include Professional Licensure[645], Dental Board[650], Medical Board[653], Nursing Board[655] and Pharmacy Board[657]

CHAPTER 1 REPORTABLE DISEASES, POISONINGS AND CONDITIONS, AND QUARANTINE AND ISOLATION

- | | |
|--|--|
| 1.1(139A) | Definitions |
| 1.2(139A) | Purpose and authority |
| REPORTABLE COMMUNICABLE AND INFECTIOUS DISEASES | |
| 1.3(139A,141A) | Reportable communicable and infectious diseases |
| 1.4(135,139A) | Reporting of reportable communicable and infectious diseases |
| REPORTABLE POISONINGS AND CONDITIONS—NONCOMMUNICABLE | |
| 1.5(139A,135) | Reportable poisonings and conditions |
| 1.6(135,139A) | Reporting poisonings and conditions |
| INVESTIGATION | |
| 1.7(135,139A) | Investigation of reportable diseases |
| ISOLATION AND QUARANTINE | |
| 1.8(139A) | Isolation and quarantine |
| 1.9(135,139A) | Quarantine and isolation |
| 1.10 and 1.11 | Reserved |
| 1.12(135,137,139A) | Quarantine and isolation—model rule for local boards |
| 1.13(135,139A) | Area quarantine |
| SPECIFIC NONCOMMUNICABLE CONDITIONS | |
| 1.14(139A) | Cancer |
| 1.15(144) | Congenital and inherited disorders |
| 1.16(139A) | Agriculturally related injury |
| CONFIDENTIALITY | |
| 1.17(139A,22) | Confidentiality |
| STATE HYGIENIC LABORATORY | |
| 1.18(135,139A) | Specimens for which the fee charged by the state hygienic laboratory shall be waived |

CHAPTER 2 HEPATITIS PROGRAMS

- | | |
|--|---|
| VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING | |
| 2.1(135) | Definitions |
| 2.2(135) | Purpose |
| 2.3(135) | Exposure risks for hepatitis C virus |
| 2.4(135) | Information for public distribution |
| 2.5(135) | Hepatitis vaccination and testing program |
| 2.6 to 2.8 | Reserved |
| HEPATITIS C AWARENESS PROGRAM—VETERANS | |
| 2.9(135) | Definitions |
| 2.10(135) | Purpose |
| 2.11(135) | Awareness materials |
| 2.12(135) | Awareness information |
| 2.13(135) | Resources for hepatitis follow-up and treatment |

CHAPTER 3

EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

	EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM
3.1(135)	Definitions
3.2(135)	Purpose
3.3(135)	Goal and outcomes
3.4(135)	Program components
3.5(135)	Screening the hearing of all newborns
3.6(135)	Procedures required of birthing hospitals
3.7(135)	Procedures required of birth centers
3.8(135)	Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening
3.9(135)	Reporting hearing screening results and information to the department and child's primary care provider
3.10(135)	Conducting and reporting screening results and diagnostic audiologic assessments to the department and child's primary care provider
3.11(135)	Sharing of information and confidentiality
3.12	Reserved
3.13(135)	Procedure to accommodate parental objection
3.14(135)	Civil/criminal liability
3.15(135)	Early hearing detection and intervention advisory committee
3.16	Reserved
	HEARING AIDS AND AUDIOLOGIC SERVICES FUNDING PROGRAM
3.17(83GA, HF811)	Eligibility criteria
3.18(83GA, HF811)	Covered services
3.19(83GA, HF811)	Application procedures
3.20(83GA, HF811)	Hearing aids and audiologic services funding wait list
3.21(83GA, HF811)	Reimbursement of providers
3.22(83GA, HF811)	Appeals

CHAPTER 4

CENTER FOR CONGENITAL AND INHERITED DISORDERS

4.1(136A)	Program overview
4.2(136A)	Definitions
4.3(136A)	Iowa newborn screening program (INSP)
4.4(136A)	Iowa maternal prenatal screening program (IMPSP)
4.5(136A)	Regional genetic consultation service (RGCS)
4.6(136A)	Neuromuscular and other related genetic disease program (NMP)
4.7(136A)	Iowa registry for congenital and inherited disorders (IRCID)
4.8(135)	Iowa's early hearing detection and intervention program
4.9 and 4.10	Reserved

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

4.11(136A)	Purpose
4.12(136A)	Duties of the committee
4.13(136A)	Membership
4.14(136A)	Meetings

CHAPTER 5
MATERNAL DEATHS

- 5.1(135) Reporting of maternal deaths
- 5.2(135) Ascertainment of maternal deaths
- 5.3(135) Reviewing of maternal deaths

CHAPTER 6
Reserved

CHAPTER 7
IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY
OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF
HIGHER EDUCATION

- 7.1(139A) Definitions
- 7.2(139A) Persons included
- 7.3(139A) Persons excluded
- 7.4(139A) Required immunizations
- 7.5(139A) Required education
- 7.6(139A) Proof of immunization
- 7.7(139A) Provisional enrollment
- 7.8(139A) Records and reporting
- 7.9(139A) Providing immunization services
- 7.10(139A) Compliance
- 7.11(22) Statewide registry
- 7.12(22) Release of immunization and health screening information

CHAPTER 8
IOWA CARE FOR YOURSELF (IA CFY) PROGRAM

- 8.1(135) Definitions
- 8.2(135) Components of the Iowa care for yourself (IA CFY) program
- 8.3(135) Participant eligibility criteria
- 8.4(135) Participant application procedures for IA CFY program services
- 8.5(135) Priority for program expenditures
- 8.6(135) Right to appeal
- 8.7(135) Verification for the breast or cervical cancer treatment (BCCT) option of Medicaid

CHAPTER 9
OUTPATIENT DIABETES EDUCATION PROGRAMS

- 9.1(135) Scope
- 9.2(135) Definitions
- 9.3(135) Powers and duties
- 9.4(135) Application procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
- 9.5(135) Renewal procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
- 9.6(135) Application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
- 9.7(135) Diabetes program management for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
- 9.8(135) Program staff for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators

- 9.9(135) Renewal application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
- 9.10(135) Annual report
- 9.11(135) Enforcement
- 9.12(135) Complaints
- 9.13(135) Appeal process
- 9.14(135) Formal contest

CHAPTER 10

IOWA GET SCREENED: COLORECTAL CANCER PROGRAM

- 10.1(135) Purpose
- 10.2(135) Definitions
- 10.3(135) Components of the Iowa get screened (IGS): colorectal cancer program
- 10.4(135) Medical advisory board
- 10.5(135) Participant eligibility criteria
- 10.6(135) Participant application procedures for IGS program services
- 10.7(135) Priority for program expenditures
- 10.8(135) Right to appeal
- 10.9(135) Colorectal cancer treatment

CHAPTER 11

HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

- 11.1(139A,141A) Definitions
- 11.2(141A) HIV testing—obtaining consent—voluntary HIV-related tests for adults who are not pregnant
- 11.3(139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant
- 11.4(141A) HIV testing—obtaining consent—voluntary HIV-related tests for pregnant women
- 11.5(141A) HIV test results—post-test counseling
- 11.6(141A) Reporting of diagnoses and HIV-related tests, events, and conditions to the department
- 11.7(141A) Penalties
- 11.8(141A) Immunity
- 11.9 and 11.10 Reserved

TRAINING PROGRAMS

- 11.11(135) Purpose
- 11.12 to 11.14 Reserved

PARTNER NOTIFICATION SERVICES AND DIRECT NOTIFICATION OF AN IDENTIFIABLE THIRD PARTY

- 11.15(139A,141A) Purpose
- 11.16(139A,141A) Definitions
- 11.17(139A,141A) Partner notification services by the department
- 11.18(141A) Direct notification of an identifiable third party by a physician or the department
- 11.19 and 11.20 Reserved

CARE PROVIDERS EXPOSED TO CONTAGIOUS OR INFECTIOUS DISEASES

- 11.21(139A) Purpose
- 11.22(139A) Definitions
- 11.23(139A,141A) Exposures in non-clinical settings
- 11.24(139A,141A) Exposures in clinical settings
- 11.25(139A) Immunity

- 11.26(139A) Duty to test
- 11.27 to 11.29 Reserved

HIV-RELATED TEST FOR CONVICTED OR ALLEGED SEXUAL-ASSAULT OFFENDERS AND VICTIMS

- 11.30(915) Purpose
- 11.31(915) Definitions
- 11.32(915) HIV-related test—convicted or alleged sexual assault offender
- 11.33(915) Medical examination costs
- 11.34(915) Testing, reporting, and counseling—penalties
- 11.35 to 11.39 Reserved

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

- 11.40(141A) Definitions
- 11.41(141A) Purpose
- 11.42(141A) Ensuring payer of last resort
- 11.43(141A) Eligibility requirements
- 11.44(141A) Enrollment process
- 11.45(141A) Discontinuation of services
- 11.46(141A) Distribution requirements
- 11.47(141A) ADAP waiting list
- 11.48(141A) Appeals
- 11.49(141A) Confidentiality

CHAPTER 12

APPROVAL OF CONFIRMATORY LABORATORIES FOR PRIVATE SECTOR DRUG-FREE WORKPLACE TESTING

- 12.1(730) Purpose
- 12.2(730) Definitions
- 12.3(730) Powers and duties
- 12.4(730) Application procedures and requirements
- 12.5(730) Requirements of laboratory personnel involved in confirmatory testing for alcohol
or other drugs, or their metabolites
- 12.6(730) Quality assurance program and procedure manual requirements
- 12.7(730) Analytical quality control
- 12.8(730) Sample security and confidentiality of test results
- 12.9(730) Confirmatory testing
- 12.10(730) Documentation of the confirmatory testing process
- 12.11(730) Reporting of confirmed positive test results to the medical review officer
- 12.12(730) Reporting requirements to department
- 12.13(730) Approval, renewal, and inspection fees
- 12.14(730) Renewal
- 12.15(730) Reciprocity
- 12.16(730) Changes during approval periods
- 12.17(730) Enforcement
- 12.18(730) Denial, suspension, modification or revocation of approval
- 12.19(730) Restoration of approval
- 12.20(730) Appeals process
- 12.21(730) Complaints

CHAPTER 13

Reserved

CHAPTER 14 WATER TREATMENT SYSTEMS

14.1(714)	Purpose
14.2(714)	Applicability
14.3(714)	Definitions
14.4(714)	Performance testing
14.5(714)	Third-party testing agencies
14.6(714)	Registration
14.7(714)	Label and manufacturer's performance data sheet
14.8(714)	Consumer information pamphlet
14.9(714)	Sales of water treatment systems
14.10(714)	Treatment of records
14.11(714)	Penalties

CHAPTER 15 SWIMMING POOLS AND SPAS

15.1(135I)	Applicability
15.2(135I)	Scope
15.3(135I)	Definitions and abbreviations

SWIMMING POOLS

15.4(135I)	Swimming pool operations
15.5(135I)	Construction and reconstruction

ADMINISTRATION

15.6(135I)	Enforcement
15.7(135I)	Variances
15.8(135I)	Penalties
15.9(135I)	Registration
15.10(135I)	Training courses
15.11(135I)	Swimming pool/spa operator qualifications
15.12(135I)	Fees
15.13(135I)	28E agreements
15.14(135I)	Application denial or partial denial—appeal
15.15 to 15.50	Reserved

SPAS

15.51(135I)	Spa operations
15.52(135I)	Construction and reconstruction

CHAPTERS 16 to 19 Reserved

CHAPTER 20 COMMUNITY WATER FLUORIDATION GRANT PROGRAM

20.1(135)	Purpose
20.2(135)	Definitions
20.3(135)	Applications
20.4(135)	Review and rating of applications
20.5(135)	Project contracts
20.6(135)	Implementation procedures
20.7(135)	Reimbursement
20.8(135)	Termination
20.9(135)	Appeals

CHAPTER 21
CENTRAL REGISTRY FOR
BRAIN AND SPINAL CORD INJURIES

21.1(135)	Purpose
21.2(135)	Definitions
21.3(135)	Reportable injuries
21.4(135)	Who reports and under what circumstances
21.5(135)	Method and frequency of reporting
21.6(135)	Confidentiality
21.7(135)	Quality assurance

CHAPTER 22
PRACTICE OF TATTOOING

22.1(135)	Purpose
22.2(135)	Definitions
22.3(135)	General provisions
22.4(135)	Sanitation and infection control
22.5(135)	Equipment
22.6(135)	Procedures
22.7(135)	Permit issuance and renewal
22.8(135)	Establishment permit requirements
22.9(135)	Tattoo artist permit requirements
22.10(135)	Temporary establishment permit requirements
22.11(135)	Mobile unit permit requirements
22.12(135)	Agreements
22.13(135)	Inspection requirements
22.14(135)	Tattoo inspector qualifications
22.15(135)	Client records
22.16(135)	Enforcement
22.17(135)	Adverse actions and the appeal process

CHAPTER 23
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

23.1(105)	Definitions
23.2(105)	Duties of all licensees, specialty licensees, and certificate holders
23.3(105)	Contractor license
23.4(105)	Master license
23.5(105)	Journey person license
23.6(105)	Apprentice license
23.7(105)	Specialty licenses and certifications
23.8(105)	Inactive license

CHAPTER 24
PRIVATE WELL TESTING, RECONSTRUCTION, AND
PLUGGING—GRANTS TO COUNTIES

24.1(135)	Applicability
24.2(135)	Definitions
24.3(135)	Eligibility
24.4(135)	Goal and objectives
24.5(135)	Eligible grant costs
24.6(135)	Ineligible grant costs
24.7(135)	Performance requirements
24.8(135)	Contents of grant application

24.9(135)	Grant application submission
24.10(135)	Multicounty grant applications
24.11(135)	Grant period
24.12(135)	Record keeping and retention
24.13(135)	Grant amendments
24.14(135)	Termination or forfeiture of grant funds

CHAPTER 25 STATE PLUMBING CODE

25.1(105)	Adoption
25.2(105)	Applicability
25.3(105)	Fuel gas piping
25.4(105)	Amendments to Uniform Plumbing Code
25.5(105)	Backflow prevention with containment

CHAPTER 26 BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

26.1(135K)	Applicability
26.2(135K)	Definitions
26.3(135K)	Registration required
26.4(135K)	Backflow prevention assembly tester training
26.5(135K)	Registration
26.6(135K)	Standards of conduct
26.7(135K)	Penalty
26.8(135K)	Denial, suspension or revocation

CHAPTER 27 PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

27.1(17A,105)	Definitions
27.2(17A,105)	Purpose of board
27.3(17A,105)	Organization of board and proceedings
27.4(17A,105)	Official communications
27.5(17A,105)	Office hours
27.6(21)	Public meetings

CHAPTER 28 PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

28.1(105)	Fees
28.2(105)	Annual review of fee schedule

CHAPTER 29 PLUMBING AND MECHANICAL SYSTEMS BOARD— APPLICATION, LICENSURE, AND EXAMINATION

29.1(105)	Definitions
29.2(105)	Available licenses and general requirements
29.3(105)	Medical gas piping certification
29.4(105)	Minimum qualifications for licensure
29.5(105)	General requirements for application for licensure
29.6(105)	Examination
29.7(105)	License renewal
29.8(105)	License reissue
29.9(105)	Waiver from examination for military service

CHAPTER 30
CONTINUING EDUCATION FOR PLUMBING AND
MECHANICAL SYSTEMS PROFESSIONALS

30.1(105)	Definitions
30.2(105)	Continuing education requirements
30.3(105)	Continuing education programs/activities
30.4(105)	Course instructor(s)
30.5(105)	Compliance review of continuing education requirements
30.6(105)	Continuing education exemptions
30.7(105)	Continuing education extensions
30.8(105)	Continuing education reporting requirements

CHAPTER 31
PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS OR VARIANCES FROM
ADMINISTRATIVE RULES

31.1(17A,105,272C)	Definitions
31.2(17A,105,272C)	Scope of chapter
31.3(17A,105,272C)	Applicability of chapter
31.4(17A,105,272C)	Criteria for waiver or variance
31.5(17A,105,272C)	Filing of petition
31.6(17A,105,272C)	Content of petition
31.7(17A,105,272C)	Additional information
31.8(17A,105,272C)	Notice
31.9(17A,105,272C)	Hearing procedures
31.10(17A,105,272C)	Ruling
31.11(17A,105,272C)	Public availability
31.12(17A,105,272C)	Summary reports
31.13(17A,105,272C)	Cancellation of a waiver
31.14(17A,105,272C)	Violations
31.15(17A,105,272C)	Defense
31.16(17A,105,272C)	Judicial review

CHAPTER 32
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

32.1(105,272C)	Definitions
32.2(105,272C)	Grounds for discipline
32.3(105,272C)	Method of discipline
32.4(272C)	Discretion of board
32.5(105)	Civil penalties
32.6(105,272C)	Collection of delinquent civil penalties and discipline-related debts

CHAPTER 33
PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

33.1(17A,105,272C)	Scope and applicability
33.2(17A,105,272C)	Definitions
33.3(17A)	Time requirements
33.4(17A,272C)	Probable cause
33.5(17A,272C)	Informal settlement
33.6(17A)	Statement of charges
33.7(17A)	Requests for contested case proceeding
33.8(105)	Legal representation
33.9(17A,105,272C)	Presiding officer in a disciplinary contested case
33.10(17A)	Presiding officer in a nondisciplinary contested case

33.11(17A)	Disqualification
33.12(17A)	Consolidation—severance
33.13(17A)	Pleadings
33.14(17A)	Service and filing
33.15(17A)	Discovery
33.16(17A,272C)	Subpoenas in a contested case
33.17(17A)	Motions
33.18(17A)	Withdrawals
33.19(17A)	Intervention
33.20(17A)	Telephone proceedings
33.21(17A)	Prehearing conferences
33.22(17A)	Continuances
33.23(272C)	Settlement agreements
33.24(17A)	Hearing procedures
33.25(17A)	Evidence
33.26(17A)	Default
33.27(17A)	Ex parte communication
33.28(17A)	Recording costs
33.29(17A)	Interlocutory appeals
33.30(17A,272C)	Decisions
33.31(17A,272C)	Client notification
33.32(17A,272C)	Application for rehearing
33.33(17A)	Stays of board actions
33.34(17A)	No factual dispute contested cases
33.35(17A)	Emergency adjudicative proceedings
33.36(17A,105,272C)	License denial
33.37(17A,105,272C)	Denial of application to renew license
33.38(105,272C)	Recovery of hearing fees and expenses
33.39(17A)	Judicial review
33.40(17A,272C)	Reinstatement

CHAPTER 34

PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

34.1(272C)	Complaints
34.2(272C)	Report of malpractice claims or actions or disciplinary actions
34.3(272C)	Report of acts or omissions
34.4(272C)	Investigation of complaints or reports
34.5(17A,272C)	Issuance of investigatory subpoenas
34.6(272C)	Peer review committees
34.7(17A)	Appearance

CHAPTER 35

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE OF NONRESIDENT APPLICANT—RECIPROCITY

35.1(105)	Definition
35.2(105)	Reciprocity agreements
35.3(105)	Application by reciprocity

CHAPTER 36

PLUMBING AND MECHANICAL SYSTEMS BOARD— PETITIONS FOR RULE MAKING

36.1(17A)	Petition for rule making
36.2(17A)	Briefs

36.3(17A)	Inquiries
36.4(17A)	Board consideration

CHAPTER 37

PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

GENERAL PROVISIONS

37.1(136C)	Purpose and scope
37.2 to 37.4	Reserved
37.5(136C)	Definitions
37.6	Reserved
37.7(136C)	Communications
37.8 to 37.10	Reserved
37.11(136C)	Specific exemptions
37.12 to 37.20	Reserved
	BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM
37.21(136C)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
37.22	Reserved
37.23(136C)	Access authorization program requirements
37.24	Reserved
37.25(136C)	Background investigations
37.26	Reserved
37.27(136C)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
37.28	Reserved
37.29(136C)	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
37.30	Reserved
37.31(136C)	Protection of information
37.32	Reserved
37.33(136C)	Access authorization program review
37.34 to 37.40	Reserved

PHYSICAL PROTECTION REQUIREMENTS DURING USE

37.41(136C)	Security program
37.42	Reserved
37.43(136C)	General security program requirements
37.44	Reserved
37.45(136C)	LLEA coordination
37.46	Reserved
37.47(136C)	Security zones
37.48	Reserved
37.49(136C)	Monitoring, detection, and assessment
37.50	Reserved
37.51(136C)	Maintenance and testing
37.52	Reserved
37.53(136C)	Requirements for mobile devices
37.54	Reserved
37.55(136C)	Security program review
37.56	Reserved

37.57(136C) Reporting of events
 37.58 to 37.70 Reserved

PHYSICAL PROTECTION IN TRANSIT

37.71(136C) Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
 37.72 Reserved
 37.73(136C) Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
 37.74 Reserved
 37.75(136C) Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
 37.76 Reserved
 37.77(136C) Advance notification of shipment of category 1 quantities of radioactive material
 37.78 Reserved
 37.79(136C) Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
 37.80 Reserved
 37.81(136C) Reporting of events
 37.82 to 37.100 Reserved

RECORDS

37.101(136C) Form of records
 37.102 Reserved
 37.103(136C) Record retention
 37.104 Reserved
 37.105(136C) Inspections

CHAPTER 38

GENERAL PROVISIONS FOR RADIATION MACHINES AND RADIOACTIVE MATERIALS

38.1(136C) Purpose and scope
 38.2(136C) Definitions
 38.3(136C) Exemptions from the regulatory requirements
 38.4(136C) General regulatory requirements
 38.5 Reserved
 38.6(136C) Prohibited uses
 38.7(136C) Communications
 38.8(136C) Fees
 38.9(136C) Administrative enforcement actions
 38.10(136C) Deliberate misconduct

CHAPTER 39

REGISTRATION OF RADIATION MACHINE FACILITIES, LICENSURE OF RADIOACTIVE MATERIALS AND TRANSPORTATION OF RADIOACTIVE MATERIALS

39.1(136C) Purpose and scope
 39.2(136C) Definitions
 39.3(136C) Requirements for registration of X-ray and other electronic machines that produce radiation
 39.4(136C) Requirements for licensing of radioactive materials
 39.5(136C) Transportation of radioactive material

CHAPTER 40 STANDARDS FOR PROTECTION AGAINST RADIATION

GENERAL PROVISIONS

40.1(136C)	Purpose and scope
40.2(136C)	Definitions
40.3(136C)	Implementation
40.4 to 40.9	Reserved

RADIATION PROTECTION PROGRAMS

40.10(136C)	Radiation protection programs
40.11 to 40.14	Reserved

OCCUPATIONAL DOSE LIMITS

40.15(136C)	Occupational dose limits for adults
40.16(136C)	Compliance with requirements for summation of external and internal doses
40.17(136C)	Determination of external dose from airborne radioactive material
40.18(136C)	Determination of internal exposure
40.19(136C)	Determination of prior occupational dose
40.20(136C)	Planned special exposures
40.21(136C)	Occupational dose limits for minors
40.22(136C)	Dose equivalent to an embryo/fetus
40.23 to 40.25	Reserved

RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

40.26(136C)	Dose limits for individual members of the public
40.27(136C)	Compliance with dose limits for individual members of the public

RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

40.28(136C)	Radiological criteria for license termination
40.29(136C)	Radiological criteria for unrestricted use
40.30(136C)	Criteria for license termination under restricted conditions
40.31(136C)	Alternate criteria for license termination

TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

40.32(136C)	Testing for leakage or contamination of sealed sources
40.33 to 40.35	Reserved

SURVEYS AND MONITORING

40.36(136C)	Surveys and monitoring—general
40.37(136C)	Conditions requiring individual monitoring of external and internal occupational dose
40.38 to 40.41	Reserved

CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

40.42(136C)	Control of access to high radiation areas
40.43(136C)	Control of access to very high radiation areas
40.44(136C)	Control of access to very high radiation areas—irradiators
40.45 to 40.47	Reserved

RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

40.48(136C)	Use of process or other engineering controls
40.49(136C)	Use of other controls
40.50(136C)	Use of individual respiratory protection equipment
40.51 to 40.53	Reserved

STORAGE AND CONTROL OF LICENSED OR REGISTERED
SOURCES OF RADIATION

40.54	Reserved
40.55(136C)	Security and control of licensed or registered sources of radiation
40.56(136C)	Control of sources of radiation not in storage
40.57 to 40.59	Reserved

PRECAUTIONARY PROCEDURES

40.60(136C)	Caution signs
40.61(136C)	Posting requirements
40.62(136C)	Exceptions to posting requirements
40.63(136C)	Labeling containers and radiation machines
40.64(136C)	Exemptions to labeling requirements
40.65(136C)	Procedures for receiving and opening packages
40.66 to 40.69	Reserved

WASTE DISPOSAL

40.70(136C)	General requirements
40.71(136C)	Method for obtaining approval of proposed disposal procedures
40.72(136C)	Disposal by release into sanitary sewerage
40.73(136C)	Treatment or disposal by incineration
40.74(136C)	Disposal of specific wastes
40.75(136C)	Transfer for disposal and manifests
40.76(136C)	Compliance with environmental and health protection regulations
40.77(136C)	Disposal of certain by-product material
40.78 and 40.79	Reserved

RECORDS

40.80(136C)	General provisions
40.81(136C)	Records of radiation protection programs
40.82(136C)	Records of surveys
40.83(136C)	Records of tests for leakage or contamination of sealed sources
40.84(136C)	Records of prior occupational dose
40.85(136C)	Records of planned special exposures
40.86(136C)	Records of individual monitoring results
40.87(136C)	Records of dose to individual members of the public
40.88(136C)	Records of waste disposal
40.89(136C)	Records of testing entry control devices for very high radiation areas
40.90(136C)	Form of records
40.91 to 40.94	Reserved

REPORTS

40.95(136C)	Reports of stolen, lost, or missing licensed or registered sources of radiation
40.96(136C)	Notification of incidents
40.97(136C)	Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits
40.98(136C)	Reports of planned special exposures
40.99(136C)	Reports of transactions involving nationally tracked sources
40.100(136C)	Reports of individual monitoring
40.101(136C)	Notifications and reports to individuals
40.102(136C)	Reports of leaking or contaminated sealed sources
40.103 and 40.104	Reserved

ADDITIONAL REQUIREMENTS

- 40.105(136C) Vacating premises
 40.106 to 40.109 Reserved

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

- 40.110(136C) Posting of notices to workers
 40.111(136C) Instructions to workers
 40.112(136C) Notifications and reports to individuals
 40.113(136C) Presence of representatives of licensees or registrants and workers during inspection
 40.114(136C) Consultation with workers during inspections
 40.115(136C) Requests by workers for inspections
 40.116(136C) Inspections not warranted—informal review
 40.117(136C) Employee protection

CHAPTER 41

SAFETY REQUIREMENTS FOR THE USE OF
RADIATION MACHINES AND CERTAIN USES
OF RADIOACTIVE MATERIALS

- 41.1(136C) X-rays in the healing arts
 41.2(136C) Use of radionuclides in the healing arts
 41.3(136C) Therapeutic use of radiation machines
 41.4 and 41.5 Reserved
 41.6(136C) X-ray machines used for screening and diagnostic mammography
 41.7(136C) X-ray machines used for stereotactically guided breast biopsy

CHAPTER 42

PERMIT TO OPERATE IONIZING RADIATION PRODUCING MACHINES
OR ADMINISTER RADIOACTIVE MATERIALS

- 42.1(136C) Purpose
 42.2(136C) Definitions
 42.3(136C) Exemptions

PERMIT APPLICATION AND RENEWAL

- 42.4(136C) Permit application and renewal
 42.5(136C) Permit to practice as a general radiologic technologist
 42.6(136C) Permit to practice as a general nuclear medicine technologist
 42.7(136C) Permit to practice as a radiation therapist
 42.8(136C) Permit to practice as a radiologist assistant
 42.9(136C) Permit to practice as a limited radiologic technologist with categories of chest, spine, extremities, shoulder, pediatric
 42.10(136C) Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry
 42.11 Reserved
 42.12(136C) Closed classification or category permits
 42.13(136C) Combining permits for an individual qualifying for permits in more than one classification
 42.14 to 42.17 Reserved

PERMIT HOLDER SUBMISSION OF CONTINUING EDUCATION

- 42.18(136C) Submission of proof of completion of continuing education by permit holder to meet continuing education requirements to renew or reinstate a permit
 42.19 and 42.20 Reserved

ADMINISTRATIVE ITEMS AND GROUNDS FOR DISCIPLINARY ACTION

- 42.21(136C) Administrative items
- 42.22(136C) Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders
- 42.23(136C) Procedures for demand for information, notice of proposed action, and orders for penalties, suspensions, revocations, and civil penalties for all individuals under this chapter
- 42.24 and 42.25 Reserved

DEPARTMENT APPROVAL OF CONTINUING EDUCATION ACTIVITIES

- 42.26(136C) Department approval of continuing education activities
- 42.27 to 42.29 Reserved

FORMAL EDUCATION

- 42.30(136C) Requirements for formal education
- 42.31(136C) Standards for formal education for limited radiologic technologists
- 42.32(136C) Standards for formal education for X-ray equipment operators in podiatric radiography
- 42.33(136C) Standards for formal education for X-ray equipment operators in bone densitometry

CHAPTER 43

MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

- 43.1(136B) Purpose and scope
- 43.2(136B) Definitions
- 43.3(136B) General provisions
- 43.4(136B) Application for certification
- 43.5(136B) Revocation of certification
- 43.6(136B) Reporting requirements
- 43.7(136B) Training and continuing education programs
- 43.8(136B) Exemptions
- 43.9(136B) Enforcement
- 43.10(136B) Penalties
- 43.11(136B) Persons exempted from certification

CHAPTER 44

MINIMUM REQUIREMENTS FOR RADON MITIGATION

- 44.1(136B) Purpose and scope
- 44.2(136B) Definitions
- 44.3(136B) General provisions
- 44.4(136B) Application for credentialing
- 44.5(136B) Revocation of credentialing
- 44.6(136B) Additional record-keeping requirements
- 44.7(136B) Continuing education
- 44.8(136B) Exemptions
- 44.9(136B) Enforcement
- 44.10(136B) Penalties

CHAPTER 45

RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL
RADIOGRAPHIC OPERATIONS

- 45.1(136C) General requirements for industrial radiography operations
- 45.2(136C) Radiation safety requirements for the use of radiation machines in industrial radiography

- 45.3(136C) Radiation safety requirements for use of sealed sources of radiation in industrial radiography
- 45.4(136C) Radiation safety requirements for the use of particle accelerators for nonhuman use
- 45.5(136C) Radiation safety requirements for analytical X-ray equipment
- 45.6(136C) Radiation safety requirements for well-logging, wireline service operations and subsurface tracer studies

CHAPTER 46

MINIMUM REQUIREMENTS FOR TANNING FACILITIES

- 46.1(136D) Purpose and scope
- 46.2(136D) Definitions
- 46.3(136D) Exemptions
- 46.4(136D) Permits and fees
- 46.5(136D) Construction and operation of tanning facilities
- 46.6(136D) Inspections, violations and injunctions

CHAPTERS 47 to 49

Reserved

CHAPTER 50

ORAL HEALTH

- 50.1(135) Purpose
- 50.2(135) Definitions
- 50.3(135) Dental director responsibilities
- 50.4(135) Oral health bureau functions
- 50.5(135) Funding

CHAPTER 51

DENTAL SCREENING

- 51.1(135) Purpose
- 51.2(135) Definitions
- 51.3(135) Persons included
- 51.4(135) Persons excluded
- 51.5(135) Dental screening components
- 51.6(135) Dental screening providers
- 51.7(135) Time line for valid dental screening
- 51.8(135) Proof of dental screening
- 51.9(135) Dental screening documentation
- 51.10(135) Assuring dental screening services
- 51.11(135) Records
- 51.12(135) Reporting
- 51.13(135) Iowa's dental screening database
- 51.14(135) Release of dental screening information
- 51.15(135) Referral requirements
- 51.16(135) Provider training

CHAPTER 52

VISION SCREENING

- 52.1(135) Purpose
- 52.2(135) Definitions
- 52.3(135) Persons included and persons excluded
- 52.4(135) Child vision screening components
- 52.5(135) Time line for valid vision screening

52.6(135)	Proof of child vision screening
52.7(135)	Child vision screening reporting
52.8(135)	School requirements
52.9(135)	Iowa's child vision screening database module and follow-up
52.10(135)	Referral requirements

CHAPTERS 53 and 54

Reserved

CHAPTER 55

ADVISORY COUNCIL ON BRAIN INJURIES

55.1(135)	Definitions
55.2(135)	Mission of council
55.3(135)	Council established
55.4(135)	Officers
55.5(135)	Duties of the council
55.6(135)	Meetings
55.7(135)	Minutes
55.8(135)	Task forces
55.9(135)	Expenses of advisory council members

CHAPTER 56

BRAIN INJURY SERVICES PROGRAM

56.1(135)	Definitions
56.2(135)	Purpose
56.3(135)	Waiver-eligible component
56.4(135)	Cost-share component
56.5(135)	Application process
56.6(135)	Service providers and reimbursement
56.7(135)	Available services/service plan
56.8(135)	Redetermination
56.9(135)	Appeal rights

CHAPTER 57

PLUMBING AND MECHANICAL SYSTEMS BOARD— DECLARATORY ORDERS

57.1(17A)	Petition for declaratory order
57.2(17A)	Notice of petition
57.3(17A)	Intervention
57.4(17A)	Briefs
57.5(17A)	Inquiries
57.6(17A)	Service and filing of petitions and other papers
57.7(17A)	Consideration
57.8(17A)	Action on petition
57.9(17A)	Refusal to issue order
57.10(17A)	Contents of declaratory order—effective date
57.11(17A)	Copies of orders
57.12(17A)	Effect of a declaratory order

CHAPTER 58
PLUMBING AND MECHANICAL SYSTEMS BOARD—
AGENCY PROCEDURE FOR RULE MAKING

58.1(17A)	Applicability
58.2(17A)	Advice on possible rules before notice of proposed rule adoption
58.3(17A)	Public rule-making docket
58.4(17A)	Notice of proposed rule making
58.5(17A)	Public participation
58.6(17A)	Regulatory analysis
58.7(17A)	Fiscal impact statement
58.8(17A)	Time and manner of rule adoption
58.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
58.10(17A)	Exemptions from public rule-making procedures
58.11(17A)	Concise statement of reasons
58.12(17A)	Contents, style, and form of rule
58.13(17A)	Agency rule-making record
58.14(17A)	Filing of rules
58.15(17A)	Effectiveness of rules prior to publication
58.16(17A)	General statements of policy
58.17(17A)	Review by agency of rules

CHAPTER 59
PLUMBING AND MECHANICAL SYSTEMS BOARD—FAIR INFORMATION
PRACTICES AND PUBLIC RECORDS

59.1(17A,22)	Definitions
59.2(17A,22)	Statement of policy
59.3(17A,22)	Requests for access to records
59.4(17A,22)	Access to confidential records
59.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examination
59.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
59.7(17A,22)	Consent to disclosure by the subject of a confidential record
59.8(17A,22)	Notice to suppliers of information
59.9(17A,22)	Disclosures without the consent of the subject
59.10(17A,22)	Routine use
59.11(17A,22)	Consensual disclosure of confidential records
59.12(17A,22)	Release to subject
59.13(17A,22)	Availability of records
59.14(17A,22)	Personally identifiable information
59.15(17A,22)	Other groups of records routinely available for public inspection
59.16(17A,22)	Applicability

CHAPTER 60
PLUMBING AND MECHANICAL SYSTEMS BOARD—
NONCOMPLIANCE REGARDING CHILD SUPPORT, NONPAYMENT OF STATE DEBT,
AND NONCOMPLIANCE REGARDING STUDENT LOAN REPAYMENT

60.1(252J)	Child support noncompliance
60.2(272D)	Nonpayment of state debt
60.3(261)	Student loan repayment noncompliance

CHAPTER 61
STATE MECHANICAL CODE

61.1(105)	Definitions
61.2(105)	Adoption by reference
61.3(105)	Hospitals and health care facilities
61.4(105)	Enforcement

CHAPTER 62
PLUMBING AND MECHANICAL SYSTEMS BOARD—
MILITARY SERVICE AND VETERAN RECIPROCITY

62.1(85GA,ch1116)	Military service and veteran reciprocity
-------------------	--

CHAPTERS 63 to 66
Reserved

CHAPTER 67
BLOOD LEAD TESTING

67.1(135)	Purpose
67.2(135)	Definitions
67.3(135)	Persons included
67.4(135)	Persons excluded
67.5(135)	Blood lead testing requirement
67.6(135)	Time line for valid blood lead testing
67.7(135)	Proof of blood lead testing
67.8(135)	Referral requirements
67.9(135)	Blood lead testing documentation
67.10(135)	Records
67.11(135)	Provider training

CHAPTER 68
CONTROL OF LEAD-BASED PAINT HAZARDS

68.1(135)	Applicability
68.2(135)	Definitions
68.3(135)	Elevated blood lead (EBL) inspections required
68.4(135)	Refusal of admittance
68.5(135)	Lead hazard reduction required
68.6(135)	Retaliation prohibited
68.7(135)	Enforcement
68.8(135)	Hearings
68.9(135)	Variances
68.10(135)	Injunction
68.11(135)	Effective date

CHAPTER 69
RENOVATION, REMODELING, AND REPAINTING—
LEAD HAZARD NOTIFICATION PROCESS

69.1(135)	Applicability
69.2(135)	Definitions
69.3(135)	Notification required in target housing
69.4(135)	Notification required in multifamily housing
69.5(135)	Emergency renovation, remodeling, or repainting in target housing
69.6(135)	Certification of attempted delivery in target housing
69.7(135)	Notification required in child-occupied facilities

69.8(135)	Emergency renovation, remodeling, or repainting in child-occupied facilities
69.9(135)	Certification of attempted delivery for child-occupied facilities
69.10(135)	Subcontracts
69.11(135)	Exemption
69.12(135)	Record-keeping requirements
69.13(135)	Compliance inspections
69.14(135)	Enforcement
69.15(135)	Waivers

CHAPTER 70

LEAD-BASED PAINT ACTIVITIES

70.1(135)	Applicability
70.2(135)	Definitions
70.3(135)	Lead professional certification
70.4(135)	Course approval and standards
70.5(135)	Certification, interim certification, and recertification
70.6(135)	Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities
70.7(135)	Firms
70.8	Reserved
70.9(135)	Compliance inspections
70.10(135)	Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties
70.11(135)	Waivers

CHAPTER 71

EMERGENCY INFORMATION SYSTEM ON PESTICIDES FOR USE BY HEALTH CARE PROVIDERS DURING MEDICAL EMERGENCIES

71.1(139A)	Scope
71.2(139A)	Definitions
71.3(139A)	Operation of EIS

CHAPTER 72

CHILDHOOD LEAD POISONING PREVENTION PROGRAM

72.1(135)	Definitions
72.2(135)	Approved programs
72.3(135)	Level of funding
72.4(135)	Appeals

CHAPTER 73

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

73.1(135)	Program explanation
73.2(135)	Adoption by reference
73.3(135)	Availability of rules
73.4(135)	Certain rules exempted from public participation
73.5(135)	Definitions
73.6(135)	Staffing of contract agencies
73.7(135)	Certification of participants
73.8(135)	Food delivery
73.9(135)	Food package
73.10(135)	Education

73.11(135)	Health services
73.12(135)	Appeals and fair hearings—local agencies and vendors
73.13(135)	Right to appeal—participant
73.14(135)	State monitoring of contract agencies
73.15(135)	Migrant services
73.16(135)	Civil rights
73.17(135)	Audits
73.18(135)	Reporting
73.19(135)	Program violation
73.20(135)	Data processing
73.21(135)	Outreach
73.22(135)	Caseload management
73.23(135)	Grant application procedures for contract agencies
73.24(135)	Participant rights

CHAPTER 74 FAMILY PLANNING SERVICES

74.1(135)	Program explanation
74.2(135)	Adoption by reference
74.3(135)	Rule coverage
74.4(135)	Definitions
74.5(135)	Grant application procedures for contract agencies
74.6(135)	Funding levels for contract agencies
74.7(135)	Agency performance
74.8(135)	Reporting
74.9(135)	Fiscal management
74.10(135)	Audits
74.11(135)	Denial, suspension, revocation, or reduction of contracts with contract agencies
74.12(135)	Right to appeal—contract agency

CHAPTER 75 STATEWIDE OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE PROGRAM

75.1(255A)	Definitions
75.2(255A)	Covered services
75.3(255A)	Quota assignment
75.4(255A)	Eligibility criteria
75.5(255A)	Application procedures
75.6(255A)	Reimbursement of providers
75.7(255A)	Reassignment of county quotas
75.8(255A)	Appeals and fair hearings

CHAPTER 76 MATERNAL AND CHILD HEALTH PROGRAM

76.1(135)	Program overview
76.2(135)	Adoption by reference
76.3(135)	Rule coverage
76.4(135)	Definitions
76.5(135)	MCH services
76.6(135)	Client eligibility criteria
76.7(135)	Client application procedures for MCH services
76.8(135)	Right to appeal—client
76.9(135)	Grant application procedures for community-based contract agencies

76.10(135)	Funding levels for community-based contract agencies
76.11(135)	Contract agency performance
76.12(135)	Reporting
76.13(135)	Fiscal management
76.14(135)	Audits
76.15	Reserved
76.16(135)	Denial, suspension, revocation or reduction of contracts with contract agencies
76.17(135)	Right to appeal—contract agency
76.18 to 76.20	Reserved

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

76.21(135)	Purpose
76.22(135)	Mission
76.23(135)	Membership
76.24(135)	Officers
76.25(135)	Duties of the council
76.26(135)	Meetings
76.27(135)	Executive committee
76.28(135)	Committees

CHAPTER 77

LOCAL BOARDS OF HEALTH

77.1(137)	Purpose
77.2(137)	Definitions
77.3(137)	Local boards of health—roles and responsibilities
77.4(137)	Local boards of health—Iowa public health standards
77.5(137)	Organization of local boards of health
77.6(137)	Operation of local boards of health
77.7(137)	Expenses of local board of health members
77.8(137)	District boards of health
77.9(137)	Approval of district board of health formation
77.10(137)	Denial of district board of health formation
77.11(137)	Adding to a district board of health
77.12(137)	Withdrawal from a district board of health

CHAPTERS 78 and 79

Reserved

CHAPTER 80

LOCAL PUBLIC HEALTH SERVICES

80.1(135)	Purpose
80.2(135)	Definitions
80.3(135)	Local public health services (LPHS)
80.4(135)	Utilization of LPHS contract funding
80.5(135)	Right to appeal
80.6(135)	Community capacity/local board of health and healthy aging funds

CHAPTER 81

GENERAL RULES FOR MIGRATORY LABOR CAMPS

81.1(138)	Shelters
81.2(138)	Water supply
81.3(138)	Waste disposal
81.4(138)	Bathing facilities

- 81.5(138) Central dining facilities
- 81.6(138) Safety and fire

CHAPTER 82

OFFICE OF MINORITY AND MULTICULTURAL HEALTH

- 82.1(135) Purpose
- 82.2(135) Definitions
- 82.3(135) Responsibilities of the office of minority and multicultural health
- 82.4(135) Advisory council

CHAPTERS 83 and 84

Reserved

CHAPTER 85

LOCAL SUBSTITUTE MEDICAL DECISION-MAKING BOARDS

- 85.1(135) Purpose
- 85.2(135) Definitions
- 85.3(135) Appointment of local boards
- 85.4(135) Filing an application
- 85.5(135) Notification of patient and review of application
- 85.6(135) Panel appointment and procedures
- 85.7(135) Panel determination of need for surrogate decision making
- 85.8(135) Panel determination regarding proposed medical care decision
- 85.9(135) Right of appeal
- 85.10(135) Records and reports
- 85.11(135) Liability

CHAPTER 86

PLACES WHERE DEAD HUMAN BODIES ARE PREPARED FOR BURIAL OR ENTOMBMENT

- 86.1(156) Purpose
- 86.2(156) Definitions
- 86.3(156) Licensing
- 86.4(156) Public access areas
- 86.5(156) Preparation room
- 86.6(156) Crematorium chambers
- 86.7(156) Inspection fees

CHAPTER 87

HEALTHY FAMILIES IOWA (HFI)

- 87.1(135) Purpose
- 87.2(135) Definitions
- 87.3(135) Applicant eligibility
- 87.4(135) Participant eligibility
- 87.5(135) Program requirements
- 87.6(135) Contractor assurance
- 87.7(135) Applicant appeal process
- 87.8(135) Participant right to appeal

CHAPTER 88

VOLUNTEER HEALTH CARE PROVIDER PROGRAM

- 88.1(135) Purpose
- 88.2(135) Definitions
- 88.3(135) Eligibility for the volunteer health care provider program

88.4(135)	Sponsor entity and protected clinic
88.5(135)	Covered health care services
88.6(135)	Defense and indemnification
88.7(135)	Term of agreement
88.8(135)	Reporting requirements and duties
88.9(135)	Revocation of agreement
88.10(135)	Procedure for revocation of agreement
88.11(135)	Effect of suspension or revocation
88.12(135)	Protection denied
88.13(135)	Board notice of disciplinary action
88.14(135)	Effect of eligibility protection
88.15(135)	Reporting by a protected clinic or sponsor entity

CHAPTER 89

DECISION-MAKING ASSISTANCE PROGRAM AND PARENTAL NOTIFICATION OF INTENT TO TERMINATE A PREGNANCY THROUGH ABORTION

89.1(135L)	Title
89.2(135L)	Purpose and scope
89.3(135L)	Definitions
89.4 to 89.10	Reserved

DECISION-MAKING ASSISTANCE PROGRAM

89.11(135L)	Purpose
89.12(135L)	Initial appointment of a pregnant minor with a licensed physician from whom an abortion is sought and certification procedure for the decision-making assistance program
89.13 to 89.20	Reserved

NOTIFICATION PROCESS

89.21(135L)	Notification of parent prior to the performance of abortion on a pregnant minor
89.22(135L)	Exceptions to notification of parent
89.23(135L)	Physician compliance
89.24 and 89.25	Reserved
89.26(135L)	Fraudulent practice

CHAPTER 90

IOWA CHILD DEATH REVIEW TEAM

90.1(135)	Purpose
90.2(135)	Definitions
90.3(135)	Agency
90.4(135)	Membership
90.5(135)	Officers
90.6(135)	Meetings
90.7(135)	Expenses of team members
90.8(135)	Team responsibilities
90.9(135)	Liaisons
90.10(135)	Confidentiality and disclosure of information
90.11(135)	Immunity and liability

CHAPTER 91

IOWA DOMESTIC ABUSE DEATH REVIEW TEAM

91.1(135)	Purpose
91.2(135)	Definitions

91.3(135)	Agency
91.4(135)	Membership
91.5(135)	Officers
91.6(135)	Meetings
91.7(135)	Expenses of team members
91.8(135)	Team duties and responsibilities
91.9(135)	Liaisons
91.10(135)	Confidentiality and disclosure of information
91.11(135)	Immunity and liability

CHAPTER 92

IOWA FATALITY REVIEW COMMITTEE

92.1(135)	Purpose
92.2(135)	Definitions
92.3(135)	Committee
92.4(135)	Formation of the committee
92.5(135)	Committee protocol for review
92.6(135)	Content of report
92.7(135)	Consultation with county attorney
92.8(135)	Supplemental report
92.9(135)	Confidentiality and disclosure of information
92.10(135)	Immunity and liability

CHAPTER 93

MANDATORY REPORTER TRAINING CURRICULA

93.1(135)	Purpose
93.2 and 93.3	Reserved
93.4(135)	Duties
93.5(135)	Standards for approval of curricula
93.6(135)	Process for application review and approval
93.7(135)	Process for appeal

CHAPTER 94

CHILD PROTECTION CENTER GRANT PROGRAM

94.1(135)	Scope and purpose
94.2(135)	Definitions
94.3(135)	Goals
94.4(135)	Review process
94.5(135)	Eligibility and criteria
94.6(135)	Appeals

CHAPTER 95

VITAL RECORDS: GENERAL ADMINISTRATION

95.1(144)	Definitions
95.2(144)	Vital records and statistics
95.3(144)	Forms—property of department
95.4(144)	Information by others
95.5(144)	Handling of vital records
95.6(144)	Fees
95.7(144)	General public access of vital records in the custody of the county registrar
95.8(144)	Direct tangible interest in and entitlement to a vital record
95.9(144)	Search and issuance of a certified copy of a vital record
95.10(144)	Search and issuance for genealogy or family history

95.11(144)	Registrars' responsibility for maintenance of confidentiality
95.12(144)	Disclosure of data
95.13(144)	Preparation of certified copies
95.14(144)	Cancellation of fraudulent records
95.15(144)	Unlawful acts
95.16(144)	Enforcement assistance

CHAPTER 96 BIRTH REGISTRATION

96.1(144)	Definitions
96.2(144)	Forms—property of department
96.3(144)	Standard birth registration—up to seven days
96.4(144)	Standard birth registration—seven days to one year
96.5(144)	Birthing institutions
96.6(144)	Non-birthing institutions
96.7(144)	Non-institution birth
96.8(144)	Gestational surrogate arrangement birth registration
96.9(144)	Foundling birth registration
96.10(144)	Newborn safe haven registration
96.11(144)	Birth registration following a foreign-born adoption
96.12(144)	Birth registration fees
96.13(144)	Fee collection
96.14(144)	Waivers
96.15(144)	Fee deposit
96.16(144)	Responsibilities of institutions
96.17(144)	Responsibility for births occurring in non-institutions and non-birthing institutions
96.18(144)	Delayed birth registration—one year or more after event

CHAPTER 97 DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

97.1(144)	Definitions
97.2(144)	Forms—property of department
97.3(144)	Standard registration of death—up to one year
97.4(144)	Standard registration of fetal death—up to one year
97.5(144)	Preparation of the certificate of death or fetal death
97.6(144)	Medical certification of death
97.7(144)	Medical certification of fetal death
97.8(144)	Medical certifier
97.9(144)	Report of autopsy findings
97.10(144)	Extension of time
97.11(144)	Removal of a dead human body or fetus
97.12(144)	Burial-transit permit
97.13(144)	Transportation and disposition of a dead human body or fetus
97.14(144)	Disinterment permits
97.15(144)	Delayed death registration—one year or more after event
97.16(144)	Registration of presumptive death
97.17(144)	Release or final disposition of a dead human body or fetus by an institution
97.18(144)	Additional record by funeral director

CHAPTER 98 MARRIAGE REGISTRATION

98.1(144,595)	Definitions
98.2(144,595)	Forms—property of department

98.3(144,595)	Standard registration of marriage—up to one year
98.4(144,595)	Application for a license to marry in Iowa
98.5(144,595)	License to marry
98.6(144, 595)	Certificate of marriage
98.7(144,595)	Delayed registration of marriage—one year or more after date of event
98.8(144,595)	Dissolution of marriage or annulment

CHAPTER 99

VITAL RECORDS MODIFICATIONS

99.1(144)	Definitions
99.2(144)	Forms—property of department
99.3(144)	Forms used in the establishment of new records
99.4(144)	Corrections of minor error in vital record—within one year of event
99.5(144)	Amendment of certificate of live birth to add first or middle given name—within one year of event
99.6(144)	Amendment of vital record—one year or more after the event
99.7(144)	Method of amendment of vital records
99.8(144)	Correction or amendment of same item more than once
99.9(144)	Other amendments to certificate of live birth
99.10(144)	Correction or amendment to medical certification of cause of death
99.11(144)	Correction or amendment to a certificate of marriage
99.12(144)	Correction to a report of dissolution of marriage or annulment
99.13(144)	Minimum information required to establish a new certificate of live birth
99.14(144)	Establishment of new certificate of live birth following adoption
99.15(144)	Establishment of new certificate of live birth following a birth by gestational surrogate arrangement
99.16(144)	Certificate of live birth following voluntary paternity affidavit
99.17(144)	Certificate of live birth following court determination of paternity
99.18(144)	Certificate of live birth following recision of paternity affidavit or disestablishment of paternity
99.19(144)	Certificate of live birth following court-ordered change of name
99.20(144)	Certificate of live birth following sex designation change

CHAPTER 100

VITAL RECORDS REGISTRIES AND REPORTS

100.1(144)	Definitions
100.2(144)	Forms—property of department
100.3(144)	Declaration of paternity registry established
100.4(144)	Mutual consent voluntary adoption registry established
100.5(144)	Statistical report of termination of pregnancy report

CHAPTERS 101 to 107

Reserved

CHAPTER 108

MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM

108.1(135)	Scope and purpose
108.2(135)	Definitions
108.3(135)	Eligibility criteria
108.4(135)	Amount of grant
108.5(135)	Review process

CHAPTER 109

PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

- 109.1(135M) Definitions
- 109.2(135M) Purpose
- 109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies
- 109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies
- 109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies
- 109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies
- 109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies
- 109.8(135M) Forms and record keeping
- 109.9(135M) Handling fee
- 109.10(135M) List of drugs and supplies program will accept
- 109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution
- 109.12 and 109.13 Reserved
- 109.14(135M) Prescription drug donation repository in disaster emergencies

CHAPTER 110

CENTER FOR RURAL HEALTH
AND PRIMARY CARE

- 110.1(135) Purpose and scope
- 110.2(135) Definitions
- 110.3(135) Responsibilities of the center
- 110.4(135) Advisory committee to the center for rural health and primary care
- 110.5(135) Organization
- 110.6(135) Meetings
- 110.7 to 110.10 Reserved

PRIMECARRE COMMUNITY GRANT PROGRAM

- 110.11(135) Purpose
- 110.12 to 110.15 Reserved

PRIMECARRE PRIMARY CARE PROVIDER
COMMUNITY SCHOLARSHIP PROGRAM

- 110.16(135) Purpose
- 110.17 to 110.20 Reserved

PRIMECARRE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM

- 110.21(135) Purpose

CHAPTER 111

IOWA NEEDS NURSES NOW INFRASTRUCTURE ACCOUNT

- 111.1(135) Scope and purpose
- 111.2(135) Definitions
- 111.3(135) Eligibility and criteria
- 111.4(135) Review process
- 111.5(135) Performance standards
- 111.6(135) Appeals

CHAPTER 112

BIOLOGICAL AGENT RISK ASSESSMENT

- 112.1(135) Purpose
- 112.2(135) Definitions
- 112.3(135) Biosecurity council established
- 112.4(135) Biological agent risk assessment

- 112.5(135) Requests for biological agent information
- 112.6(135) Exceptions

CHAPTER 113

PUBLIC HEALTH RESPONSE TEAMS

- 113.1(135) Definitions
- 113.2(135) Purpose
- 113.3(135) Sponsor agency
- 113.4(135) Public health response team members
- 113.5(135) Public health response team
- 113.6(135) Legal and other protections
- 113.7(135) Reporting requirements and duties

CHAPTER 114

PREPAREDNESS ADVISORY COMMITTEE

- 114.1(135) Definitions
- 114.2(135) Purpose
- 114.3(135) Appointment
- 114.4(135) Membership
- 114.5(135) Officers
- 114.6(135) Meetings
- 114.7(135) Subcommittees
- 114.8(135) Expenses of preparedness advisory committee voting members
- 114.9(135) Gender balance

CHAPTERS 115 to 123

Reserved

CHAPTER 124

INTERAGENCY COORDINATING COUNCIL FOR THE STATE MEDICAL EXAMINER

- 124.1(691) Purpose
- 124.2(691) Membership
- 124.3(691) Meetings
- 124.4(691) Duties
- 124.5(691) Minutes

CHAPTER 125

ADVISORY COUNCIL FOR THE STATE MEDICAL EXAMINER

- 125.1(691) Purpose
- 125.2(691) Membership
- 125.3(691) Meetings
- 125.4(691) Duties
- 125.5(691) Minutes

CHAPTER 126

STATE MEDICAL EXAMINER

- 126.1(144,331,691) Definitions
- 126.2 Reserved
- 126.3(691) Fees for autopsies and related services and reimbursement for related expenses
- 126.4(691) Fees for tissue recovery

CHAPTER 127
COUNTY MEDICAL EXAMINERS

- 127.1(144,331,691) Definitions
- 127.2(331,691) Duties of medical examiners—jurisdiction over deaths which affect the public interest
- 127.3(331,691) Autopsies
- 127.4(331,691) Fees
- 127.5(144,331,691) Death certificates—deaths affecting the public interest
- 127.6(331,691) Cremation
- 127.7(331,691) County medical examiner investigators
- 127.8(331,691) Deputy county medical examiners
- 127.9(331,691) Failure to comply with rules
- 127.10(331,691,22) Confidentiality
- 127.11(331,691,670) Indemnification

CHAPTERS 128 and 129
Reserved

CHAPTER 130
EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

- 130.1(147A) Definitions
- 130.2(147A) Purpose
- 130.3(147A) Appointment
- 130.4(147A) Absences
- 130.5(147A) Officers
- 130.6(147A) Meetings
- 130.7(147A) Subcommittees
- 130.8(147A) Expenses of advisory council members
- 130.9(147A) Gender balance

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDER
EDUCATION/TRAINING/CERTIFICATION

- 131.1(147A) Definitions
- 131.2(147A) Emergency medical care providers—requirements for enrollment in training programs
- 131.3(147A) Emergency medical care providers—authority
- 131.4(147A) Emergency medical care providers—certification, renewal standards, procedures, continuing education, and fees
- 131.5(147A) Training programs—standards, application, inspection and approval
- 131.6(147A) Continuing education providers—approval, record keeping and inspection
- 131.7(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal
- 131.8(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal
- 131.9(147A) Reinstatement of certification
- 131.10(147A) Certification denial
- 131.11(147A) Emergency adjudicative proceedings
- 131.12(147A) Complaints, investigations and appeals

CHAPTER 132

EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

- 132.1(147A) Definitions
- 132.2(147A) Authority of emergency medical care provider
- 132.3 to 132.6 Reserved
- 132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
- 132.8(147A) Service program levels of care and staffing standards
- 132.9(147A) Service program—off-line medical direction
- 132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
- 132.11 to 132.13 Reserved
- 132.14(147A) Temporary variances
- 132.15(147A) Transport options for fully authorized EMT-P, PS, and paramedic service programs

CHAPTER 133

WHITE FLASHING LIGHT AUTHORIZATION

- 133.1(321) Definitions
- 133.2(321) Purpose
- 133.3(321) Application
- 133.4(321) Approval, denial, probation, suspension and revocation of authorization
- 133.5(321) Appeal of denial, probation, or revocation of authorization

CHAPTER 134

TRAUMA CARE FACILITY CATEGORIZATION
AND VERIFICATION

- 134.1(147A) Definitions
- 134.2(147A) Trauma care facility categorization and verification
- 134.3(147A) Complaints and investigations and appeals—denial, citation and warning, probation, suspension, and revocation of verification as a trauma care facility

CHAPTER 135

TRAUMA TRIAGE AND TRANSFER PROTOCOLS

- 135.1(147A) Definitions
- 135.2(147A) Trauma triage and transfer protocols
- 135.3(147A) Offenses and penalties

CHAPTER 136

TRAUMA REGISTRY

- 136.1(147A) Definitions
- 136.2(147A) Trauma registry
- 136.3(147A) Offenses and penalties

CHAPTER 137

TRAUMA EDUCATION AND TRAINING

- 137.1(147A) Definitions
- 137.2(147A) Initial trauma education for Iowa's trauma system
- 137.3(147A) Continuing trauma education for Iowa's trauma system
- 137.4(147A) Offenses and penalties

CHAPTER 138

TRAUMA SYSTEM EVALUATION QUALITY IMPROVEMENT COMMITTEE

- 138.1(147A) Definitions
- 138.2(147A) System evaluation quality improvement committee (SEQIC)

CHAPTER 139

IOWA LAW ENFORCEMENT EMERGENCY CARE PROVIDER

- 139.1(147A) Definitions
- 139.2(147A) Authority of Iowa law enforcement emergency care provider
- 139.3(147A) Iowa law enforcement emergency care providers—requirements for enrollment in training programs
- 139.4(147A) Iowa law enforcement emergency care providers—certification, renewal standards and procedures, and fees
- 139.5(147A) Iowa law enforcement training programs
- 139.6(147A) Law enforcement AED service program authorization

CHAPTER 140

EMERGENCY MEDICAL SERVICES SYSTEM DEVELOPMENT GRANTS FUND

- 140.1(135) Definitions
- 140.2(135) Purpose
- 140.3(135) County EMS associations
- 140.4(135) County EMS system development grants

CHAPTER 141

LOVE OUR KIDS GRANT

- 141.1(321) Definitions
- 141.2(321) Purpose
- 141.3(321) Funding limitations
- 141.4(321) Use of funds
- 141.5(321) Application process
- 141.6(321) Application denial or partial denial—appeal

CHAPTER 142

OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

- 142.1(144A) Definitions
- 142.2(144A) Purpose
- 142.3(144A,147A) Responsibilities of the department
- 142.4(144A,147A) EMS providers
- 142.5(144A) Guidelines for non-EMS health care providers, patients, and organizations
- 142.6(144A) Revocation of the out-of-hospital do-not-resuscitate order
- 142.7(144A) Personal wishes of family members or other individuals who are not authorized to act on the patient's behalf
- 142.8(144A) Transfer of patients
- 142.9(144A) Application to existing orders

CHAPTER 143

AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

AUTOMATED EXTERNAL DEFIBRILLATOR GRANT PROGRAM

- 143.1(135) Purpose
- 143.2(135) Definitions
- 143.3(135) Application process
- 143.4(135) Early defibrillation program
- 143.5(135) Review process
- 143.6(135) Appeals
- 143.7 to 143.9 Reserved

AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

- 143.10(135) Purpose
- 143.11(135) Definition
- 143.12(135) AED maintenance
- 143.13 to 143.15 Reserved

FIRE DEPARTMENT RESPONSE WITH AUTOMATED EXTERNAL DEFIBRILLATOR

- 143.16(147A) Purpose
- 143.17(147A) Definitions
- 143.18(147A) Local fire department AED service registration

CHAPTER 144

EMERGENCY MEDICAL SERVICES—AIR MEDICAL SERVICE
PROGRAM AUTHORIZATION

- 144.1(147A) Definitions
- 144.2(147A) Authority of emergency medical care provider
- 144.3(147A) Air ambulance service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
- 144.4(147A) Service program levels of care and staffing standards
- 144.5(147A) Air ambulance service program—off-line medical direction
- 144.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
- 144.7(147A) Temporary variances
- 144.8(147A) Transport options for air medical services

CHAPTER 145

IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

- 145.1(144D) Definitions
- 145.2(144D) Purpose
- 145.3(144D) Responsibilities of the department

CHAPTERS 146 to 149

Reserved

CHAPTER 150

IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

- 150.1(135,77GA,ch1221) Purpose and scope
- 150.2(135,77GA,ch1221) Definitions
- 150.3(135,77GA,ch1221) Perinatal guidelines advisory committee
- 150.4(135,77GA,ch1221) Categorization and selection of level of care designation
- 150.5(135,77GA,ch1221) Recommendation by the statewide perinatal care program
- 150.6(135,77GA,ch1221) Level I hospitals
- 150.7(135,77GA,ch1221) Level II hospitals
- 150.8(135,77GA,ch1221) Level II regional centers
- 150.9(135,77GA,ch1221) Level II regional neonatology centers
- 150.10(135,77GA,ch1221) Level III centers
- 150.11(135,77GA,ch1221) Grant or denial of certificate of verification; and offenses and penalties
- 150.12(135,77GA,ch1221) Prohibited acts
- 150.13(135,77GA,ch1221) Construction of rules

CHAPTER 151
TOBACCO USE PREVENTION AND CONTROL
COMMUNITY PARTNERSHIP INITIATIVE

- 151.1(142A) Scope
- 151.2(142A) Community partnership areas
- 151.3(142A) Community partnerships
- 151.4(142A) Application requirements for community partnerships
- 151.5(142A) Performance indicators
- 151.6(142A) Application deadline
- 151.7(142A) Distribution of funding
- 151.8(142A) Gifts

CHAPTER 152
TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

- 152.1(78GA,HF2565) Scope and purpose
- 152.2(78GA,HF2565) Funding
- 152.3(78GA,HF2565) Appeals

CHAPTER 153
SMOKEFREE AIR

- 153.1(82GA,HF2212) Purpose and scope
- 153.2(82GA,HF2212) Definitions
- 153.3(82GA,HF2212) Prohibition of smoking
- 153.4(82GA,HF2212) Areas where smoking not regulated
- 153.5(82GA,HF2212) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited
- 153.6(82GA,HF2212) Duties of other state agencies and political subdivisions
- 153.7(82GA,HF2212) Leases
- 153.8(82GA,HF2212) Complaints and enforcement
- 153.9(82GA,HF2212) Limitation of rules

CHAPTER 154
MEDICAL CANNABIDIOL ACT REGISTRATION CARD PROGRAM

- 154.1(85GA,SF2360) Definitions
- 154.2(85GA,SF2360) Neurologist recommendation—medical use of cannabidiol
- 154.3(85GA,SF2360) Cannabidiol registration card—application and issuance to patient
- 154.4(85GA,SF2360) Cannabidiol registration card—application and issuance to primary caregiver
- 154.5(85GA,SF2360) Tamperproofing
- 154.6(85GA,SF2360) Denial and cancellation
- 154.7(85GA,SF2360) Appeal
- 154.8(85GA,SF2360) Duplicate card
- 154.9(85GA,SF2360) Renewal
- 154.10(85GA,SF2360) Confidentiality
- 154.11(85GA,SF2360) Agreement with department of transportation

CHAPTER 155
LICENSURE STANDARDS FOR SUBSTANCE USE DISORDER AND
PROBLEM GAMBLING TREATMENT PROGRAMS

- 155.1(125,135) Definitions
- 155.2(125,135) Licensing
- 155.3(125,135) Types of licenses

155.4(125,135)	Nonassignability
155.5(125,135)	Application procedures
155.6(125,135)	Technical assistance
155.7(125,135)	Inspection of applicants
155.8(125,135)	License—approval
155.9(125,135)	Written corrective action plan
155.10(125,135)	Grounds for denial of license
155.11(125,135)	Denial, suspension or revocation of a license
155.12(125,135)	Contested case hearing
155.13(125,135)	Rehearing application
155.14(125,135)	Judicial review
155.15(125,135)	Issuance of a license after denial, suspension or revocation
155.16(125,135)	Complaints and investigations
155.17(125,135)	License revision
155.18(125,135)	Deemed status
155.19(125,135)	Funding
155.20(125,135)	Inspection
155.21(125,135)	General standards for all programs
155.22(125,135)	Inpatient and residential program facilities
155.23(125,135)	Specific standards for inpatient and residential programs
155.24(125,135)	Specific standards for inpatient and residential programs licensed to provide services to juveniles
155.25(125,135)	Specific standards for substance use assessment and OWI evaluation-only programs
155.26 to 155.33	Reserved
155.34(125,135)	Specific standards for enhanced treatment services
155.35(125,135)	Specific standards for opioid treatment programs
155.36(125,135)	Purpose
155.37(125,135)	Definitions
155.38(125,135)	Tuberculosis screening of staff and residents

CHAPTER 156

LICENSURE STANDARDS FOR SUBSTANCE ABUSE TREATMENT PROGRAMS IN CORRECTIONAL FACILITIES

156.1(125)	Definitions
156.2(125)	Inspection
156.3(125)	General standards for all correctional substance abuse treatment programs

CHAPTER 157

STANDARDS FOR SUBSTANCE ABUSE TREATMENT AND ASSESSMENT PROGRAMS AND THE OPERATING A MOTOR VEHICLE WHILE INTOXICATED (OWI) LAW

157.1(125)	Definitions
157.2(125)	Screening, evaluation, treatment, and drinking drivers course
157.3(125)	Screening, evaluation, treatment, and drinking drivers course completion
157.4(125)	Cost of evaluation and treatment
157.5(125)	Timeliness
157.6(125)	Confidentiality
157.7(125)	Records
157.8(125)	Reciprocity

CHAPTER 158

REGIONS FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT

- 158.1(125) Service areas established
- 158.2(125) Request for a change in service areas
- 158.3(125) Application
- 158.4(125) Notification of affected parties
- 158.5(125) Public hearing
- 158.6(125) Proposed decision
- 158.7(125) Change during term of contract
- 158.8(125) State board of health review
- 158.9(125) State board of health decision

CHAPTERS 159 to 169

Reserved

CHAPTER 170

ORGANIZATION OF THE DEPARTMENT

- 170.1(17A,135) Definitions
- 170.2(17A,135) Mission
- 170.3(17A,136) State board of health
- 170.4(17A,135) Director of the department of public health
- 170.5(17A,135) Deputy director
- 170.6(17A,135) Executive team
- 170.7(17A,135) Administrative divisions of the department
- 170.8(17A) Central office
- 170.9(17A) Business hours
- 170.10(17A) Submission of materials
- 170.11(17A) Requests for information

CHAPTER 171

PETITIONS FOR RULE MAKING

- 171.1(17A) Petition for rule making
- 171.2(17A) Briefs
- 171.3(17A) Inquiries
- 171.4(17A) Department consideration

CHAPTER 172

DECLARATORY ORDERS

- 172.1(17A) Petition for declaratory order
- 172.2(17A) Notice of petition
- 172.3(17A) Intervention
- 172.4(17A) Briefs
- 172.5(17A) Inquiries
- 172.6(17A) Service and filing of petitions and other papers
- 172.7(17A) Consideration
- 172.8(17A) Action on petition
- 172.9(17A) Refusal to issue order
- 172.10(17A) Contents of declaratory order—effective date
- 172.11(17A) Copies of orders
- 172.12(17A) Effect of a declaratory order

CHAPTER 173 CONTESTED CASES

173.1(17A)	Scope and applicability
173.2(17A)	Definitions
173.3(17A)	Time requirements
173.4(17A)	Requests for contested case proceeding
173.5(17A)	Notice of hearing
173.6(17A)	Presiding officer
173.7(17A)	Waiver of procedures
173.8(17A)	Telephone proceedings
173.9(17A)	Disqualification
173.10(17A)	Consolidation—severance
173.11(17A)	Pleadings
173.12(17A)	Service and filing of pleadings and other papers
173.13(17A)	Discovery
173.14(17A,135)	Subpoenas
173.15(17A)	Motions
173.16(17A)	Prehearing conference
173.17(17A)	Continuances
173.18(17A)	Withdrawals
173.19(17A)	Intervention
173.20(17A)	Hearing procedures
173.21(17A)	Evidence
173.22(17A)	Default
173.23(17A)	Ex parte communication
173.24(17A)	Recording costs
173.25(17A)	Interlocutory appeals
173.26(17A)	Final decision
173.27(17A)	Appeals and review
173.28(17A)	Applications for rehearing
173.29(17A)	Stays of department actions
173.30(17A)	No factual dispute contested cases
173.31(17A)	Emergency adjudicative proceedings

CHAPTER 174 AGENCY PROCEDURE FOR RULE MAKING (Uniform Rules)

174.3(17A)	Public rule-making docket
174.4(17A)	Notice of proposed rule making
174.5(17A)	Public participation
174.6(17A)	Regulatory flexibility analysis
174.11(17A)	Concise statement of reasons
174.13(17A)	Agency rule-making record

CHAPTER 175 FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

175.1(17A,22)	Definitions
175.2(17A,22)	Statement of policy
175.3(17A,22)	Requests for access to records
175.4(17A,22)	Access to confidential records
175.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examination

175.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
175.7(17A,22)	Consent to disclosure by the subject of a confidential record
175.8(17A,22)	Notice to suppliers of information
175.9(17A,22)	Disclosures without the consent of the subject
175.10(17A,22)	Routine use
175.11(17A,22)	Consensual disclosure of confidential records
175.12(17A,22)	Release to subject
175.13(17A,22)	Availability of records
175.14(17A,22)	Personally identifiable information
175.15(17A,22)	Other groups of records
175.16(17A,22)	Data processing systems
175.17(17A,22)	Applicability

CHAPTER 176 CRITERIA FOR AWARDS OR GRANTS

176.1(135,17A)	Purpose
176.2(135,17A)	Definitions
176.3(135,17A)	Exceptions
176.4(135,17A)	Requirements
176.5(135,17A)	Review process (competitive applications only)
176.6	Reserved
176.7(135,17A)	Public notice of available funds
176.8(135,17A)	Appeals

CHAPTER 177 HEALTH DATA

177.1(76GA,ch1212)	Purpose
177.2(76GA,ch1212)	Definitions
177.3(76GA,ch1212)	Description of data to be submitted
177.4(76GA,ch1212)	Department studies
177.5(76GA,ch1212)	Fees
177.6(76GA,ch1212)	Patient confidentiality
177.7(76GA,ch1212)	Department contracting
177.8(76GA,ch1212)	Address and specification for data submissions

CHAPTER 178 VARIANCES AND WAIVERS OF PUBLIC HEALTH ADMINISTRATIVE RULES

178.1(17A,135)	Waivers
178.2(17A,135)	Sample petition for waiver

CHAPTERS 179 to 185 Reserved

CHAPTER 186 GOVERNMENTAL PUBLIC HEALTH ADVISORY BODIES

186.1(135A)	Purpose
186.2(135A)	Definitions
186.3(135A)	Roles and responsibilities of advisory bodies
186.4(135A)	Officers
186.5(135A)	Members of advisory bodies
186.6(135A)	Meetings

- 186.7(135A) Conflict of interest
- 186.8(135A) Subcommittees

CHAPTERS 187 to 190
Reserved

CHAPTER 191
ADVISORY BODIES OF THE DEPARTMENT

- 191.1(135) Definitions
- 191.2(135) Purpose
- 191.3(135) Appointment
- 191.4(135) Officers
- 191.5(135) Meetings
- 191.6(135) Subcommittees
- 191.7(135) Expenses of advisory body members
- 191.8(135) Gender balance

CHAPTER 192
CHILD SUPPORT NONCOMPLIANCE

- 192.1(252J) Definitions
- 192.2(252J) Issuance or renewal of a license—denial
- 192.3(252J) Suspension or revocation of a license
- 192.4(17A,22,252J) Sharing of information

CHAPTER 193
IMPAIRED PRACTITIONER REVIEW COMMITTEE

- 193.1(272C) Definitions
- 193.2(272C) Purpose
- 193.3(272C) Composition of the committee
- 193.4(272C) Eligibility
- 193.5(272C) Terms of participation in the impaired practitioner recovery program
- 193.6(272C) Limitations
- 193.7(272C) Confidentiality

CHAPTER 194
NONPAYMENT OF STATE DEBT

- 194.1(272D) Definitions
- 194.2(272D) Issuance or renewal of a license—denial
- 194.3(272D) Suspension or revocation of a license
- 194.4(272D) Sharing of information

CHAPTER 195
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT
FOR PAYMENT OF OBLIGATION

- 195.1(261) General definitions
- 195.2(261) Issuance or renewal of a license—denial
- 195.3(261) Suspension or revocation of a license
- 195.4(17A,22,261) Sharing of information

CHAPTER 196
MILITARY SERVICE AND VETERAN RECIPROCITY

- 196.1(85GA,ch1116) Definitions
- 196.2(85GA,ch1116) Military education, training, and service credit
- 196.3(85GA,ch1116) Veteran reciprocity

CHAPTERS 197 to 200

Reserved

CHAPTER 201

ORGANIZED DELIVERY SYSTEMS

LICENSURE AND REGULATION

- 201.1(135,75GA,ch158) Purpose and scope
- 201.2(135,75GA,ch158) Definitions
- 201.3(135,75GA,ch158) Application
- 201.4(135,75GA,ch158) Governing body
- 201.5(135,75GA,ch158) Service area/geographic access
- 201.6(135,75GA,ch158,78GA,ch41) Provider network and contracts; treatment and services
- 201.7(135,75GA,ch158) Complaints
- 201.8(135,75GA,ch158) Accountability
- 201.9(135,75GA,ch158) Reporting
- 201.10(135,75GA,ch158) Evaluation
- 201.11(135,75GA,ch158) Annual report
- 201.12(135,75GA,ch158) Finance and solvency
- 201.13(135,75GA,ch158) Investment
- 201.14(135,75GA,ch158) Rating practices
- 201.15(135,75GA,ch158) Name
- 201.16(135,75GA,ch158) Change in organizational documents or control
- 201.17(135,75GA,ch158) Appeal
- 201.18(135,78GA,ch41) External review
- 201.19 Reserved

ANTITRUST

- 201.20(135,75GA,ch158) Purpose
- 201.21(135,75GA,ch158) Definitions
- 201.22(135,75GA,ch158) Scope
- 201.23(135,75GA,ch158) Application
- 201.24(135,75GA,ch158) Notice and comment
- 201.25(135,75GA,ch158) Procedure for review of applications
- 201.26(135,75GA,ch158) Criteria for decision
- 201.27(135,75GA,ch158) Decision
- 201.28(135,75GA,ch158) Appeal
- 201.29(135,75GA,ch158) Supervision after approval
- 201.30(135,75GA,ch158) Revocation

CHAPTER 202

CERTIFICATE OF NEED PROGRAM

- 202.1(135) Definitions
- 202.2(135) Letter of intent
- 202.3(135) Determination of reviewability
- 202.4(135) Submission of application
- 202.5(135) Organizational procedures
- 202.6(135) Public hearing on application
- 202.7(135) Summary review
- 202.8(135) Extension of review time
- 202.9(135) Rehearing of certificate of need decision
- 202.10(135) Status reports to affected persons
- 202.11(135) Finality
- 202.12(135) Project progress reports

- 202.13(135) Request for extension of certificate
- 202.14(135) Application changes after approval
- 202.15(135) Sanctions
- 202.16(135) Reporting requirements

CHAPTER 203

STANDARDS FOR CERTIFICATE OF NEED REVIEW

- 203.1 Reserved
- 203.2(135) Cardiac catheterization and cardiovascular surgery standards
- 203.3(135) Radiation therapy or radiotherapy standards
- 203.4(135) Computerized tomography standards
- 203.5(135) Long-term care
- 203.6 and 203.7 Reserved
- 203.8(135) Financial and economic feasibility
- 203.9 to 203.11 Reserved
- 203.12(135) Magnetic resonance imaging services standards
- 203.13(135) Positron emission tomography services standards

CHAPTERS 204 and 205

Reserved

CHAPTER 206

IOWA HEALTH INFORMATION NETWORK

- 206.1(135) Scope and applicability
- 206.2(135) Definitions
- 206.3(135) Policy development and governance
- 206.4(135) Monitoring and audit
- 206.5(135) Consumer participation in the Iowa health information network
- 206.6(135) Security incidents, breaches
- 206.7(135) Health information audit

CHAPTER 1
REPORTABLE DISEASES, POISONINGS AND CONDITIONS, AND
QUARANTINE AND ISOLATION

641—1.1(139A) Definitions. For the purpose of these rules, the following definitions shall apply:

“Acute or chronic respiratory conditions due to fumes, vapors or dusts” means acute chemical bronchitis; any acute, subacute, or chronic respiratory condition due to inhalation of a chemical fume or vapor; or pneumoconioses not specifically listed elsewhere in these rules. (ICD-10 codes J63.0 to J64, J66, and J68.0 to J68.9) *“Acute or chronic respiratory conditions due to fumes, vapors or dusts”* excludes those respiratory conditions related to tobacco smoke exposure.

“Agriculturally related injury” means any nonhousehold injury to a farmer, farm worker, farm family member, or other individual, which occurred on a farm, or in the course of handling, producing, processing, transporting or warehousing farm commodities.

“AIDS” means AIDS as defined in Iowa Code section 141A.1.

“Area quarantine” means prohibiting ingress to and egress from a building or buildings, structure or structures, or other definable physical location, or portion thereof, to prevent or contain the spread of a suspected or confirmed quarantinable disease or to prevent or contain exposure to a suspected or known chemical, biological, radioactive, or other hazardous or toxic agent.

“Business” means and includes every trade, occupation, or profession.

“Care provider” means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual’s official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in Iowa Code section 147A.1, firefighter, or peace officer. *“Care provider”* also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in Iowa Code section 613.17.

“Case” means an individual who has confirmatory evidence of disease.

“Clinical laboratory” means any laboratory performing analyses on specimens taken from the body of a person in order to assess that person’s health status.

“Communicable disease” means any disease spread from person to person or animal to person.

“Congenital or inherited disorder” means congenital or inherited disorder as defined in Iowa Code section 136A.2.

“Contagious or infectious disease” means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease, with the exception of AIDS or HIV infection as defined in Iowa Code section 141A.1, determined to be life-threatening to a person exposed to the disease based upon a determination by the state public health medical director and epidemiologist and in accordance with guidelines of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

“Department” means the Iowa department of public health.

“Designated officer” means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.

“Director” means the director of the Iowa department of public health.

“Exposure” means the risk of contracting disease.

“Fetal death” means an unintended death occurring after a gestation period of 20 completed weeks, or an unintended death of a fetus with a weight of 350 or more grams. *“Fetal death”* is synonymous with stillbirth.

“HBV” means hepatitis B virus.

“Health care facility” means a health care facility as defined in Iowa Code section 135C.1, an ambulatory surgical center, or a clinic.

“Health care provider” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, optometry, or licensed as a physician assistant, dental hygienist, or acupuncturist.

“HIV” means HIV as defined in Iowa Code section 141A.1.

“Hospital” means hospital as defined in Iowa Code section 135B.1.

“Hypersensitivity pneumonitis” means a disease in which the air sacs (alveoli) of the lungs become inflamed when certain dusts are inhaled to which the person is sensitized or allergic. “Hypersensitivity pneumonitis” includes but is not limited to farmer’s lung, silo filler’s disease, and toxic organic dust syndrome.

“IDSS” means the Iowa disease surveillance system, a secure Web-based statewide disease reporting and surveillance system.

“Infectious disease” means a disease caused by the entrance into the body of organisms, including but not limited to bacteria, protozoans, fungi, prions, or viruses which grow and multiply.

“Infectious tuberculosis” means pulmonary or laryngeal tuberculosis as evidenced by:

1. Isolation of *M. tuberculosis* complex (positive culture) from a clinical specimen or positive nucleic acid amplification test, or

2. Both radiographic evidence of tuberculosis, such as an abnormal chest X-ray, and clinical evidence, such as a positive skin test or whole blood assay test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with infectious tuberculosis that lead a health care provider to diagnose infectious tuberculosis according to currently acceptable standards of medical practice and to initiate treatment for tuberculosis.

“Injury” means physical damage or harm to the body as the result of an act or event.

“Investigation” means an inquiry conducted to determine the specific source, mode of transmission, and cause of a disease or suspected disease occurrence and to determine the specific incidence, prevalence, and extent of the disease in the affected population. “Investigation” may also include the application of scientific methods and analysis to institute appropriate control measures.

“Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease. Isolation shall be in such places, marked by placards if necessary, and under such conditions to prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.

“Local board” means the local board of health.

“Local department” means the local health department.

“Microcystin toxin” means the toxin that is released by blue-green algae or cyanobacteria.

“Microcystin toxin poisoning” means any acute or subacute systemic, ophthalmologic, or dermatologic illness or injury resulting from or suspected of resulting from inhalation, ingestion, or dermal exposure to toxins associated with a blue-green algae or cyanobacteria bloom in water.

“Noncommunicable respiratory illnesses” means an illness indicating prolonged exposure or overexposure to asbestos, silica, silicates, aluminum, graphite, bauxite, beryllium, cotton dust or other textile material, or coal dust. “Noncommunicable respiratory illnesses” includes, but is not limited to asbestosis, coal worker’s pneumoconiosis, and silicosis.

“Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction” means any extrinsic asthma or acute chemical pneumonitis due to exposure to toxic agents in the workplace. (ICD-10 codes J67.0 to J67.9)

“Pesticide” means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living persons, which the Iowa secretary of agriculture shall declare to be a pest; and (2) any substances intended for use as a plant growth regulator, defoliant, or desiccant. Pesticides include active and inert ingredients of herbicides, insecticides, rodenticides, repellants, fumigants, fungicides, wood treatment products, and disinfectants as well as adjuvants that are added to a pesticide formulation to improve or change properties such as deposition, persistence, or mixing ability.

“Pesticide poisoning” means any acute or subacute systemic, ophthalmologic, or dermatologic illness or injury resulting from or suspected of resulting from inhalation or ingestion of, dermal exposure to, or ocular contact with a pesticide. Laboratory confirmation is not required.

“Placard” means a warning sign to be erected and displayed on the periphery of a quarantine area, forbidding entry to or exit from the area.

“Poison control or poison information center” means any organization or program which has as one of its primary objectives the provision of toxicologic and pharmacologic information and referral services to the public and to health care providers (other than pharmacists) in response to inquiries about actual or potential poisonings.

“Public health disaster” means an incident as defined in Iowa Code section 135.140.

“Quarantinable disease” means any communicable disease which presents a risk of serious harm to public health and which may require isolation or quarantine to prevent its spread. “Quarantinable disease” includes but is not limited to cholera; diphtheria; infectious tuberculosis; plague; smallpox; yellow fever; viral hemorrhagic fevers, including Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named; novel influenza; and severe acute respiratory syndrome (SARS).

“Quarantine” means the limitation of freedom of movement of persons or animals that have been exposed to a quarantinable disease within specified limits marked by placards, if necessary, for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a quarantinable disease which affects people.

“Reportable cancers” means those cancers included in the National Cancer Institute’s Surveillance, Epidemiology and End Results (SEER) Program.

“Reportable disease” means any disease designated by this chapter.

“Severe skin disorder” means those dermatoses, burns, and other severe skin disorders which result in death or which require hospitalization or other multiple courses of medical therapy.

“Sexually transmitted disease or infection” or *“STI”* means a disease or infection as identified by this chapter that is transmitted through sexual practices. “Sexually transmitted disease or infection” includes, but is not limited to, acquired immunodeficiency syndrome (AIDS), chlamydia, gonorrhea, hepatitis B, hepatitis C, human immunodeficiency virus (HIV), human papillomavirus, and syphilis.

“Suspected case” means an individual that presents with clinical signs or symptoms indicative of a reportable or quarantinable disease.

“Toxic agent” means any noxious substance in solid, liquid or gaseous form capable of producing illness in humans including, but not limited to, pesticides, heavy metals, organic and inorganic dusts and organic solvents. Airborne toxic agents may be in the form of dusts, fumes, vapors, mists, gases or smoke.

“Toxic hepatitis” means any acute or subacute necrosis of the liver or other unspecified chemical hepatitis caused by exposure to nonmedicinal toxic agents other than ethyl alcohol including, but not limited to, carbon tetrachloride, chloroform, tetrachloroethane, trichloroethylene, phosphorus, trinitrotoluene (TNT), chloronaphthalenes, methylenedianilines, ethylene dibromide, and organic solvents. (ICD-10 codes K71.0 to K71.9)

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

641—1.2(139A) Purpose and authority.

1.2(1) Purpose. The purpose of this chapter is to establish rules that identify diseases, poisonings and conditions, and incidents that are to be reported to the department in accordance with Iowa Code chapters 135, 136A, 139A, 141A, and 144. These rules also establish the information to be reported, how and when to report, and who is to report. This chapter provides for disease investigation and disease control through preventive measures including but not limited to quarantine and isolation.

1.2(2) Authority. The director is the principal officer of the state to administer disease, poisoning and condition, and incident reporting and control. The State Health Registry of Iowa, administered by the Department of Epidemiology of the College of Public Health at the University of Iowa, is a public health authority for purposes of collecting cancer data in accordance with this chapter.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

REPORTABLE COMMUNICABLE AND INFECTIOUS DISEASES

641—1.3(139A,141A) Reportable communicable and infectious diseases. Reportable communicable and infectious diseases are those listed in Appendix A. The director may also designate any disease, poisoning or condition or syndrome temporarily reportable for the purpose of a special investigation.
[ARC 8231B, IAB 10/7/09, effective 11/11/09]

641—1.4(135,139A) Reporting of reportable communicable and infectious diseases. Each case of a reportable disease is required to be reported to the Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075, in a manner specified by this chapter.

1.4(1) Who is required to report communicable and infectious diseases.

a. Health care providers, hospitals, clinical laboratories, and other health care facilities are required to report cases of reportable communicable and infectious diseases. Health care providers and hospitals are exempted from reporting communicable and infectious disease laboratory results if the health care provider or hospital ensures that the laboratory performing the analysis provides a report containing the required information to the department.

b. School nurses are required to report suspected cases of reportable diseases occurring among the children supervised.

c. School officials, through the principal or superintendent as appropriate, are required to report when there is no school nurse.

d. Laboratories are required to report cases of reportable diseases and results obtained in the examination of all specimens which yield evidence of or are reactive for sexually transmitted diseases.

e. Poison control and poison information centers are required to report inquiries about cases of reportable diseases received by them.

f. Medical examiners are required to report their investigatory findings of any death which was caused by or otherwise involved a reportable disease.

g. Occupational nurses are required to report cases of reportable diseases.

h. Hospitals, health care providers and clinical laboratories outside the state of Iowa shall immediately report any confirmed or suspect case of a reportable disease, poisoning or condition in an Iowa resident.

1.4(2) What to report. Each report shall contain all of the following information:

a. The patient's name.

b. The patient's address.

c. The patient's date of birth.

d. The sex of the patient.

e. The race and ethnicity of the patient.

f. The patient's marital status.

g. The patient's telephone number.

h. The name and address of the laboratory.

i. The date the test was found to be positive and the collection date.

j. The name and address of the health care provider who performed the test

k. If the patient is female, whether the patient is pregnant.

l. The name of the reportable disease.

m. The treatment provided for the reportable disease (for STIs only).

1.4(3) How to report.

a. *Immediate reporting by telephone of diseases identified in Appendix A as immediately reportable.* A health care provider and a public, private, or hospital clinical laboratory shall immediately report any confirmed or suspected case of a disease identified in Appendix A as immediately reportable to the department's disease notification hotline at 1-800-362-2736. The report shall include all information required by 1.4(2) and the following:

(1) The stage of the disease process.

(2) Clinical status.

- (3) Any treatment provided for the disease.
- (4) All household and other known contacts.
- (5) Whether household and other known contacts have been examined and the results of such examinations.

b. Other diseases that carry serious consequences or spread rapidly. A health care facility, health care provider and a public, private, or hospital clinical laboratory shall immediately report any confirmed or suspected case of a common source epidemic or disease outbreak of unusual numbers by telephone to the department's 24/7 disease reporting telephone hotline at 1-800-362-2736.

c. Reporting of other reportable diseases. Cases of other reportable communicable or infectious diseases not included in 1.4(3) "a" shall be reported to the department in accordance with Appendix A by mail, telephone, facsimile, or other secure electronic means. The preferred method is secure Web-based reporting when available. If the department determines that reporting by mail hinders the application of organized control measures to protect the public health, the department may require that the reportable disease be reported by telephone, facsimile or secure Web-based reporting.

1.4(4) Contagious or infectious disease notification at time of death. The purpose of this subrule is to establish contagious or infectious disease notification requirements for the information of any person handling a dead body.

a. A health care provider attending a person prior to the person's death shall, at the time of death, place with the body a written notice which specifies or signifies either "known contagious or infectious disease" or "suspected contagious or infectious disease."

b. The health care facility in which the health care provider is working shall be responsible for establishing written procedures and implementing the specific internal practices necessary to satisfy this notification requirement.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 0754C, IAB 5/29/13, effective 7/3/13; ARC 2291C, IAB 12/9/15, effective 1/13/16]

REPORTABLE POISONINGS AND CONDITIONS—NONCOMMUNICABLE

641—1.5(139A,135) Reportable poisonings and conditions. Reportable poisonings and conditions are those listed in Appendix B. The director may also designate any disease, poisoning or condition or syndrome temporarily reportable for the purpose of a special investigation.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

641—1.6(135,139A) Reporting poisonings and conditions.

1.6(1) Who is required to report.

a. Health care providers, hospitals, and clinical laboratories and other health care facilities are required to report cases of reportable poisonings and conditions. Health care providers are exempted from reporting blood lead testing if the laboratory performing the analysis provides the report containing the required information to the department.

b. School nurses are required to report suspected cases of a reportable poisoning or condition occurring among the children supervised.

c. School officials, through the principal or superintendent as appropriate, are required to report when there is no school nurse.

d. Poison control and poison information centers are required to report inquiries about cases of a reportable poisoning or condition received by them.

e. Medical examiners are required to report their investigatory findings of any death which was caused by or otherwise involved a reportable poisoning or condition.

f. Occupational nurses are required to report cases of reportable poisonings and conditions.

g. Hospitals, health care providers and clinical laboratories outside the state of Iowa shall immediately report any confirmed or suspected case of a reportable poisoning or condition in an Iowa resident.

1.6(2) What to report. Each report shall contain all of the following information:

a. The patient's name.

- b.* The patient's address.
- c.* The patient's date of birth.
- d.* The sex of the patient.
- e.* The race and ethnicity of the patient.
- f.* The patient's marital status.
- g.* The patient's telephone number.
- h.* The name and address of the laboratory.
- i.* The collection date.
- j.* The analytical result.
- k.* In the case of blood lead testing, whether the sample is a capillary or venous blood sample.
- l.* For conditions not identified by a laboratory analysis, the date that the condition was diagnosed.
- m.* The name and address of the health care provider who performed the test.
- n.* If the patient is female, whether the patient is pregnant.
- o.* In the case of occupational conditions, the name of the patient's employer.

1.6(3) How to report.

a. Blood lead testing. All analytical results greater than or equal to 20 micrograms per deciliter ($\mu\text{g/dL}$) in a child under the age of six years or a pregnant woman shall be reported to the department immediately by telephone at 1-800-972-2026. All other analytical results shall be reported to the department at least weekly in an electronic format specified by the department.

b. Each instance of carbon monoxide poisoning shall be reported to the department immediately by telephone at 1-800-972-2026.

c. Reportable poisonings and conditions other than blood lead testing and carbon monoxide poisoning shall be reported to the department in accordance with Appendix B.

d. Occupational nurses shall submit cases of occupationally related reportable poisonings or conditions on report forms provided by the department.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

INVESTIGATION

641—1.7(135,139A) Investigation of reportable diseases. A health care provider and a public, private, or hospital clinical laboratory shall assist in a disease investigation conducted by the department, a local board, or a local department.

1.7(1) A health care provider and a clinical laboratory shall provide the department, local board, or local department with all information necessary to conduct the investigation, including but not limited to medical records; exposure histories; medical histories; contact information; and test results necessary to the investigation, including positive, pending, and negative test results.

1.7(2) Issuance of investigatory subpoenas.

a. The department may upon the written request of a local board of health, the state public health medical director and epidemiologist or designee, or the state public health veterinarian or designee, subpoena records, reports, or any other evidence necessary to conduct a disease investigation. The subpoena shall be signed by the division director of the division of acute disease prevention and emergency response or the division director's designee following review and approval of the written request for subpoena.

b. A written request for a subpoena shall contain the following:

- (1) The name and address of the person, facility, or entity to which the subpoena will be directed;
- (2) A specific description of the records, reports, or other evidence requested; and
- (3) An explanation of why the documents sought to be subpoenaed are necessary for the department to conduct the disease investigation.

c. Each subpoena shall contain:

- (1) The name and address of the person, facility, or entity to which the subpoena is directed;
- (2) A description of the records, reports, or other evidence requested;
- (3) The date, time, and location for production, inspection, or copying;

- (4) The time within which a motion to quash or modify the subpoena must be filed;
- (5) The signature, address, and telephone number of the division director;
- (6) The date of issuance; and
- (7) A return of service.

d. Process to challenge a subpoena.

(1) Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within five days after service of the subpoena, or before the time specified for compliance if such time is less than five days, file with the department a motion to quash or modify the subpoena. The motion shall describe the reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

(2) Upon receipt of a timely motion to quash or modify a subpoena, the department may request an administrative law judge to issue a decision. Oral argument may be scheduled at the discretion of the administrative law judge. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

(3) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the department by serving on the department director, either in person or by certified mail, a notice of appeal within ten days after the service of the decision of the administrative law judge. The department director's decision is final for purposes of judicial review.

e. Subpoenas issued under this subrule and requests, motions, and pleadings related to the issuance of subpoenas are confidential pursuant to Iowa Code sections 139A.3 and 22.7.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

ISOLATION AND QUARANTINE

641—1.8(139A) Isolation and quarantine. Isolation and quarantine should be consistent with guidelines provided by the Centers for Disease Control and Prevention.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

641—1.9(135,139A) Quarantine and isolation.

1.9(1) Examination, testing, and treatment of quarantinable diseases.

a. A health care provider who attends an individual with a suspected or active quarantinable disease shall make all reasonable efforts in accordance with guidance from a local health department or the department to examine or cause all household and other known contacts of the individual to be examined by a health care provider. The health care provider shall promptly report to the department the results of such examination. If the individual refuses or is unable to undergo examination, the health care provider shall promptly report such information to the department.

b. When required by the department, all contacts of an individual who has a suspected or active quarantinable disease, including all adult and minor contacts, shall submit to a diagnostic test or tests or other monitoring. If any suspicious abnormality is found, steps satisfactory to the department shall be taken to refer the individual promptly to a health care provider or appropriate medical facility for further evaluation and, if necessary, treatment. The department or the referring health care provider or facility shall notify the receiving health care provider or facility of the suspicious abnormality. When requested by the department, a health care provider shall report the results of the examination of a contact to the case or suspected case or incident. If an individual with a suspected or active quarantinable disease fails to comply with a department order to submit to diagnostic testing or monitoring, such individual may be ordered to be quarantined or isolated as determined by the department.

c. Upon order of the department or local board of health, an individual with a suspected or active quarantinable disease shall not attend the workplace or school and shall not be present at other public places until the individual receives the approval of the department or a local board of health to engage in such activity. Upon order of the department or local board of health, employers, schools and other public places shall exclude an individual with a suspected or active quarantinable disease. An individual may also be excluded from other premises or facilities if the department or a local board of health determines

the premises or facilities cannot be maintained in a manner adequate to protect others against the spread of the disease.

d. A person diagnosed with or clinically suspected of having infectious tuberculosis shall complete voluntary treatment until, in the opinion of the health care provider or the state public health medical director and epidemiologist, the person's tuberculosis is cured or such person is no longer a threat to public health. If such person refuses to complete the course of voluntary treatment, the department or local board of health may issue an order compelling mandatory treatment. Such order shall include the identity of the person subject to the mandatory treatment order, a description of the treatment ordered, the medical basis upon which the treatment is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory treatment order may be subject to the penalties provided in Iowa Code section 135.38 or 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

e. A person diagnosed with extrapulmonary tuberculosis or clinically suspected of having infectious tuberculosis who fails to comply with a health care provider's recommendation for diagnostic testing may be ordered to undergo diagnostic testing by the department or local board of health. Such order shall include the identity of the person subject to mandatory diagnostic testing, a description of the diagnostic testing ordered, the medical basis upon which the diagnostic testing is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory diagnostic testing order may be subject to the penalties provided in Iowa Code section 135.38 or 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

1.9(2) General provisions.

a. Voluntary confinement. Prior to instituting mandatory isolation or quarantine pursuant to this rule, the department or a local board of health may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.

b. Quarantine and isolation. The department and local boards of health are authorized to impose and enforce quarantine and isolation restrictions. Quarantine and isolation shall rarely be imposed by the department or by local boards of health. If a quarantinable disease occurs in Iowa, individuals with a suspected or active quarantinable disease and contacts to the case may be quarantined or isolated as the particular situation requires. Any quarantine or isolation imposed by the department or a local board of health shall be established and enforced in accordance with this rule.

1.9(3) Conditions and principles. The department and local boards of health shall adhere to all of the following conditions and principles when isolating or quarantining individuals or a group of individuals:

a. The isolation or quarantine shall be by the least restrictive means necessary to prevent the spread of a communicable or possibly communicable disease to others and may include, but not be limited to, confinement to private homes, other private premises, or public premises.

b. Isolated individuals shall be confined separately from quarantined individuals.

c. The health status of isolated or quarantined individuals shall be monitored regularly to determine if the individuals require further or continued isolation or quarantine.

d. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable or possibly communicable disease, the individual shall be promptly removed to isolation.

e. Isolated or quarantined individuals shall be immediately released when the department or local board of health determines that the individuals pose no substantial risk of transmitting a communicable or possibly communicable disease.

f. The needs of isolated or quarantined individuals shall be addressed in a systematic and competent fashion including, but not limited to, providing adequate food; clothing; shelter; means of communicating with those in and outside of isolation or quarantine; medication; and competent medical care.

g. The premises used for isolation or quarantine shall be maintained in a safe and hygienic manner and shall be designed to minimize the likelihood of further transmission of infection or other harm to isolated or quarantined individuals.

h. To the extent possible, cultural and religious beliefs shall be considered in addressing the needs of individuals in isolation or quarantine premises and in establishing and maintaining the premises.

1.9(4) *Isolation and quarantine premises.*

a. If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

b. An individual subject to isolation or quarantine shall obey the rules and orders of the department or the local board of health and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

c. The department or a local board of health may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

d. No individual, other than an individual authorized by the department or a local board of health, shall enter isolation or quarantine premises. If the department has requested the assistance of law enforcement in enforcing the isolation or quarantine, the department shall provide law enforcement personnel with a list of individuals authorized to enter the isolation or quarantine premises.

e. Any individual entering an isolation or quarantine premises with or without authorization of the department or a local board of health may be isolated or quarantined pursuant to this rule.

1.9(5) *Isolation and quarantine by local boards of health.*

a. A local board of health may:

- (1) Isolate individuals who are presumably or actually infected with a quarantinable disease;
- (2) Quarantine individuals who have been exposed to a quarantinable disease;
- (3) Establish and maintain places of isolation and quarantine; and
- (4) Adopt emergency rules and issue orders as necessary to establish, maintain, and enforce isolation or quarantine.

b. Isolation and quarantine undertaken by a local board of health shall be accomplished according to the rules and regulations of the local board of health so long as such rules are not inconsistent with this chapter.

1.9(6) *Isolation and quarantine by the Iowa department of public health.*

a. Authority.

(1) The department, through the director, the department's medical director, or the director's or medical director's designee, may:

1. Isolate individuals or groups of individuals who are presumably or actually infected with a quarantinable disease; and

2. Quarantine individuals or groups of individuals who have been exposed to a quarantinable disease, including individuals who are unable or unwilling to undergo examination, testing, vaccination, or treatment, pursuant to Iowa Code section 135.144.

(2) The department may:

1. Establish and maintain places of isolation and quarantine; and

2. Adopt emergency rules and issue orders as necessary to establish, maintain, and enforce isolation or quarantine.

(3) Isolation and quarantine undertaken by the department, including isolation and quarantine undertaken by the department in the event of a public health disaster, shall be established pursuant to paragraph 1.9(6) "b" or "c."

b. Temporary isolation and quarantine without notice. The department may temporarily isolate or quarantine an individual or groups of individuals through an oral order, without notice, only if delay in imposing the isolation or quarantine would significantly jeopardize the department's ability to prevent or limit the transmission of a communicable or possibly communicable disease to others. If the department imposes temporary isolation or quarantine of an individual or groups of individuals through an oral order, the department shall issue a written order as soon as is reasonably possible and in all cases within 24 hours of issuance of the oral order if continued isolation or quarantine is necessary to prevent or limit the transmission of a communicable or possibly communicable disease.

c. Written order. The department may isolate or quarantine an individual or groups of individuals through a written order issued pursuant to this rule.

(1) The written order shall include all of the following:

1. The identity of the individual, individuals, or groups of individuals subject to isolation or quarantine.

2. The premises subject to isolation or quarantine.

3. The date and time at which isolation or quarantine commences.

4. The suspected communicable disease.

5. A description of the less restrictive alternatives that were attempted and were unsuccessful, or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected.

6. A statement of compliance with the conditions and principles for isolation and quarantine specified in subrule 1.9(3).

7. The legal authority under which the order is requested.

8. The medical basis upon which isolation or quarantine is justified.

9. A statement advising the individual, individuals, or groups of individuals of the right to appeal the written order pursuant to subrule 1.9(7) and the rights of individuals and groups of individuals subject to quarantine and isolation as listed in subrule 1.9(8).

10. A copy of this chapter and the relevant definitions.

(2) A copy of the written order shall be provided to the individual to be isolated or quarantined within 24 hours of issuance of the order in accordance with any applicable process authorized by the Iowa Rules of Civil Procedure. If the order applies to a group or groups of individuals and it is impractical to provide individual copies, the order may be posted in a conspicuous place in the isolation or quarantine premises.

1.9(7) *Appeal from order imposing isolation or quarantine.*

a. Contested case. The subject of a department order imposing isolation or quarantine may appeal a written order and has the right to a contested case hearing regarding such appeal. The subject of a department order imposing isolation or quarantine may appeal the order by submitting a written appeal within ten days of receipt of the written order. The appeal shall be addressed to the Department of Public Health, Division of Epidemiology, Emergency Medical Services, and Disaster Operations, Lucas State Office Building, Des Moines, Iowa 50319-0075. Unless stayed by order of the director or a district court, the written order for quarantine or isolation shall remain in force and effect until the appeal is finally determined and disposed of upon its merits.

b. Presiding officer. The presiding officer in a contested case shall be the director or the director's designee. The director or the director's designee may be assisted by an administrative law judge in conducting the contested case hearing. The decision of the director or the director's designee shall be the department's final decision and is subject to judicial review in accordance with the provisions of Iowa Code chapter 17A.

c. Proceeding. The contested case hearing shall be conducted in accordance with the provisions contained at 641—Chapter 173. The hearing shall be held as soon as is practicable, and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the department may apply to continue the hearing date for up to ten additional days on a petition filed pursuant to this rule. The presiding officer may use discretion in granting a continuance giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence. Pursuant to Iowa Code sections 139A.3(2) and 22.7(16), the hearing shall be closed to the public at the discretion of the subject of the order. If the hearing is closed to the public, the department's final decision shall redact information which could lead to the identification of the subject of the order.

d. Judicial review. The aggrieved party to the final decision of the department may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petitions for judicial review shall be filed within 30 days after the decision becomes final.

e. Immediate judicial review of department order. The department acknowledges that in certain circumstances the subject or subjects of a department order may desire immediate judicial review of a department order in lieu of proceeding with the contested case process. The department recognizes that the procedural step of pursuing exhaustion of administrative remedies may be inadequate for purposes of Iowa Code section 17A.19, and the department may consent to immediate jurisdiction of the district court when requested by the subject or subjects of a department order and justice so requires. Unless stayed by order of the director or a district court, the written order for quarantine or isolation shall remain in force and effect until the judicial review is finally determined and disposed of upon its merits.

1.9(8) *Rights of individuals and groups of individuals subject to isolation or quarantine.* Any individual or group of individuals subject to isolation or quarantine shall have the following rights:

- a.* The right to be represented by legal counsel.
- b.* The right to be provided with prior notice of the date, time, and location of any hearing.
- c.* The right to participate in any hearing. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease.
- d.* The right to respond and present evidence and argument on the individual's own behalf in any hearing.
- e.* The right to cross-examine witnesses who testify against the individual.
- f.* The right to view and copy all records in the possession of the department which relate to the subject of the written order.

1.9(9) *Consolidation of claims.* In any proceeding brought pursuant to this rule, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence, the department or a court may order the consolidation of individual claims into group claims, if all of the following conditions exist:

- a.* The number of individuals involved or to be affected is so large that individual participation is impractical.
- b.* There are questions of law or fact common to the individual claims or rights to be determined.
- c.* The group claims or rights to be determined are typical of the affected individuals' claims or rights.
- d.* The entire group will be adequately represented in the consolidation.

1.9(10) *Implementation and enforcement of isolation and quarantine.*

a. Jurisdiction issues. The department has primary jurisdiction to isolate or quarantine individuals or groups of individuals if the communicable disease outbreak has affected more than one county or has multicounty, statewide, or interstate public health implications. When imposing isolation or quarantine, the department shall coordinate with the local health department as appropriate. If isolation or quarantine is imposed by the department, a local board of health or local health department may not alter, amend, modify, or rescind the isolation or quarantine order.

b. Assistance of local boards of health and local health departments. If isolation or quarantine is imposed by the department, the local boards of health and the local health departments in the affected areas shall assist in the implementation of the isolation or quarantine order.

c. Assistance of law enforcement. Pursuant to Iowa Code section 135.35, all peace officers of the state shall enforce and execute a lawful department order for isolation or quarantine within their respective jurisdictions. The department shall take all reasonable measures to minimize the risk of exposure to peace officers and others assisting with enforcement of an isolation or quarantine order.

d. Penalty. Pursuant to Iowa Code section 135.38, any individual who knowingly violates a lawful department order for isolation or quarantine, whether written or oral, shall be guilty of a simple misdemeanor. The court-ordered sentence may include a fine of up to \$500 and imprisonment not to exceed 30 days.

e. Enforcement action. The department may file a civil action in Polk County district court or in the district court for the county in which the individual resides or is located to enforce a department

order for isolation or quarantine. Such action shall be filed in accordance with the Iowa Rules of Civil Procedure.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

641—1.10 and 1.11 Reserved.

641—1.12(135,137,139A) Quarantine and isolation—model rule for local boards.

1.12(1) Applicability. The provisions of rule 641—1.12(135,137,139A) are applicable in jurisdictions in which a local board has adopted this rule by reference in accordance with Iowa Code section 137.6. This rule shall not be construed to require a local board to adopt this model rule.

1.12(2) Definitions.

“*Board*” means [insert the name of the city, county, or district board of health].

“*Department*” means the Iowa department of public health.

“*Isolation*” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease. Isolation shall be in such places, marked by placards if necessary, and under such conditions to prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible individuals.

“*Quarantinable disease*” means any communicable disease which presents a risk of serious harm to public health and which may require isolation or quarantine to prevent its spread. “Quarantinable disease” includes but is not limited to cholera; diphtheria; infectious tuberculosis; plague; smallpox; yellow fever; viral hemorrhagic fevers, including Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named; novel influenza; and severe acute respiratory syndrome (SARS).

“*Quarantine*” means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease, within specified limits marked by placards, for a period of time equal to the longest usual incubation period of the disease. The limitation of movement shall be in such manner as to prevent the spread of a communicable disease.

1.12(3) General provisions.

a. Voluntary confinement. Prior to instituting mandatory isolation or quarantine pursuant to this rule, the board may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.

b. Quarantine and isolation. The board is authorized to impose and enforce quarantine and isolation restrictions. Quarantine and isolation shall rarely be imposed by the board. If a quarantinable disease occurs in Iowa, individuals with a suspected or active quarantinable disease and contacts to the case may be quarantined or isolated as the particular situation requires. Any quarantine or isolation imposed by the board shall be established and enforced in accordance with this rule.

c. The local board of health shall notify, consult and work cooperatively with the Iowa department of agriculture and land stewardship and the state veterinarian office on issues relating to isolation and quarantine of animals.

1.12(4) Conditions and principles. The board shall adhere to all of the following conditions and principles when isolating or quarantining individuals or a group of individuals:

a. The isolation or quarantine shall be by the least restrictive means necessary to prevent the spread of a communicable or possibly communicable disease to others and may include, but is not limited to, confinement to private homes, other private premises, or public premises.

b. Isolated individuals shall be confined separately from quarantined individuals.

c. The health status of isolated or quarantined individuals shall be monitored regularly to determine if the individuals require further or continued isolation or quarantine.

d. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable or possibly communicable disease, the individual shall be promptly removed to isolation.

e. Isolated or quarantined individuals shall be immediately released when the board determines that the individuals pose no substantial risk of transmitting a communicable or possibly communicable disease.

f. The needs of isolated or quarantined individuals shall be addressed in a systematic and competent fashion including, but not limited to, providing adequate food; clothing; shelter; means of communicating with those in and outside of isolation or quarantine; medication; and competent medical care.

g. The premises used for isolation or quarantine shall be maintained in a safe and hygienic manner and shall be designed to minimize the likelihood of further transmission of infection or other harm to isolated or quarantined individuals.

h. To the extent possible, cultural and religious beliefs shall be considered in addressing the needs of individuals in isolation and quarantine premises and in establishing and maintaining the premises.

1.12(5) *Isolation and quarantine premises.*

a. If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

b. An individual subject to isolation or quarantine shall obey the rules and orders of the board and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

c. The department or the board may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

d. No individual, other than an individual authorized by the department or the board, shall enter an isolation or quarantine premises. If the department has requested the assistance of law enforcement in enforcing the isolation or quarantine, the department shall provide law enforcement personnel with a list of individuals authorized to enter the isolation or quarantine premises.

e. Any individual entering an isolation or quarantine premises with or without authorization of the department or the board may be isolated or quarantined pursuant to this rule.

1.12(6) *Isolation and quarantine.*

a. Authority. The board may:

- (1) Isolate individuals who are presumably or actually infected with a quarantinable disease;
- (2) Quarantine individuals who have been exposed to a quarantinable disease;
- (3) Establish and maintain places of isolation and quarantine; and
- (4) Adopt emergency rules and issue orders as necessary to establish, maintain, and enforce isolation or quarantine.

b. Isolation and quarantine undertaken by the board shall be accomplished in accordance with this rule.

c. Temporary isolation and quarantine without notice. The board may temporarily isolate or quarantine an individual or groups of individuals through an oral order, without notice, only if delay in imposing the isolation or quarantine would significantly jeopardize the board's ability to prevent or limit the transmission of a communicable or possibly communicable disease to others. If the board imposes temporary isolation or quarantine of an individual or groups of individuals through an oral order, the board shall issue a written order as soon as is reasonably possible and in all cases within 24 hours of issuance of the oral order if continued isolation or quarantine is necessary to prevent or limit the transmission of a communicable or possibly communicable disease.

d. Written order. The board may isolate or quarantine an individual or groups of individuals through a written order issued pursuant to this rule.

(1) The written order shall include all of the following:

1. The identity of the individual, individuals, or groups of individuals subject to isolation or quarantine.
2. The premises subject to isolation or quarantine.
3. The date and time at which isolation or quarantine commences.

4. The suspected communicable disease.
5. A description of the less restrictive alternatives that were attempted and were unsuccessful, or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected.
6. A statement of compliance with the conditions and principles for isolation and quarantine specified in subrule 1.12(4).
7. The legal authority under which the order is imposed.
8. The medical basis upon which isolation or quarantine is justified.
9. A statement advising the individual, individuals, or groups of individuals of the right to appeal the written order pursuant to subrule 1.12(7) and the rights of individuals and groups of individuals subject to quarantine and isolation as listed in subrule 1.12(8).

10. A copy of this rule and the relevant definitions.

(2) A copy of the written order shall be provided to the individual to be isolated or quarantined within 24 hours of issuance of the order in accordance with any applicable process authorized by the Iowa Rules of Civil Procedure. If the order applies to a group or groups of individuals and it is impractical to provide individual copies, the order may be posted in a conspicuous place in the isolation or quarantine premises.

1.12(7) *Appeal from order imposing isolation or quarantine.*

a. Appeal. The subject of a board order imposing isolation or quarantine may appeal a written order by submitting a written appeal within ten days of receipt of the written order. The appeal shall be addressed to [insert name of board and board address]. Unless stayed by order of the board or a district court, the written order for quarantine or isolation shall remain in force and effect until the appeal is finally determined and disposed of upon its merits.

b. Proceeding. The appeal proceeding shall be conducted in accordance with this rule [or insert specific board rule governing appeal proceedings]. The proceeding shall be held as soon as is practicable, and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the board may continue the proceeding date for up to ten days, giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence. At the appeal proceeding, the subject of the appeal shall have the right to introduce evidence on all issues relevant to the order. The board, by majority vote, may modify, withdraw, or order compliance with the order under appeal.

c. Judicial review. The aggrieved party to the final decision of the board may petition for judicial review of that action by filing an action in the appropriate district court. Petitions for judicial review shall be filed within 30 days after the decision becomes final.

d. Immediate judicial review of board order. The board acknowledges that in certain circumstances the subject or subjects of a board order may desire immediate judicial review of a board order in lieu of proceeding with the board's appeal process. The board may consent to immediate jurisdiction of the district court when requested by the subject or subjects of a board order and justice so requires. Unless stayed by order of the board or a district court, the written order for quarantine or isolation shall remain in force and effect until the judicial review is finally determined and disposed of upon its merits.

1.12(8) *Rights of individuals and groups of individuals subject to isolation or quarantine.* Any individual or group of individuals subject to isolation or quarantine shall have the following rights:

- a.* The right to be represented by legal counsel.
- b.* The right to be provided with prior notice of the date, time, and location of any hearing.
- c.* The right to participate in any hearing. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease.
- d.* The right to respond and present evidence and argument on the individual's own behalf in any hearing.

- e. The right to cross-examine witnesses who testify against the individual.
- f. The right to view and copy all records in the possession of the board which relate to the subject of the written order.

1.12(9) Consolidation of claims. In any proceeding brought pursuant to this rule, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence, the board or a court may order the consolidation of individual claims into group claims, if all of the following conditions exist:

- a. The number of individuals involved or to be affected is large enough that consolidation would be the best use of resources.
- b. There are questions of law or fact common to the individual claims or rights to be determined.
- c. The group claims or rights to be determined are typical of the affected individuals' claims or rights.
- d. The entire group will be adequately represented in the consolidation.

1.12(10) Implementation and enforcement of isolation and quarantine.

a. *Jurisdictional issues.* The department has primary jurisdiction to isolate or quarantine individuals or groups of individuals if the communicable disease outbreak has affected more than one county or has multicounty, statewide, or interstate public health implications. If isolation or quarantine is imposed by the department, the board may not alter, amend, modify, or rescind the isolation or quarantine order.

b. *Assistance of local boards of health and local health departments.* If isolation or quarantine is imposed by the department, the local boards of health and the local health departments in the affected areas shall assist in the implementation of the isolation or quarantine order.

c. *Penalty.* Pursuant to Iowa Code sections 137.21 and 139A.25(1), any individual who violates a lawful board order for isolation or quarantine, whether written or oral, shall be guilty of a simple misdemeanor. The court-ordered sentence may include a fine of up to \$500 and imprisonment not to exceed 30 days.

d. *Enforcement action.* The board, through the office of the county attorney, may file a civil action in the appropriate district court to enforce a board order for isolation or quarantine. Such action shall be filed in accordance with the Iowa Rules of Civil Procedure.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

641—1.13(135,139A) Area quarantine.

1.13(1) General provisions. The department and local boards of health are authorized to impose and enforce area quarantine in accordance with this rule. Area quarantine shall rarely be imposed by the department or by local boards of health.

1.13(2) Conditions and principles. The department and local boards of health shall adhere to all of the following conditions and principles when imposing and enforcing area quarantine:

a. Area quarantine shall be imposed by the least restrictive means necessary to prevent or contain the spread of a suspected or confirmed quarantinable disease or suspected or known hazardous or toxic agent.

b. Area quarantine shall be immediately terminated when the department or a local board of health determines that no substantial risk of exposure to a quarantinable disease or hazardous or toxic agent continues to exist.

c. The geographic boundaries of an area quarantine shall be established by risk assessment procedures including medical and scientific analysis of the quarantinable disease or hazardous or toxic agent, the location of the affected area, the risk of spread or contamination, and other relevant information.

1.13(3) Area quarantine sites.

a. Sites of area quarantine shall be prominently identified to restrict ingress to and egress from the area, to the extent practicable. The department or a local board of health may placard or otherwise identify the site, or may request the assistance of law enforcement in identifying the site.

b. No individual, other than an individual authorized by the department or a local board of health, shall enter a building, structure, or other physical location subject to area quarantine. The department or a local board of health may authorize public health officials, environmental specialists, health care providers, or others access to an area quarantine site as necessary to conduct public health investigations, to decontaminate the site, or for other public health purposes. Notwithstanding any provision in this chapter to the contrary, law enforcement, fire service, and emergency medical service providers may enter an area quarantine site to provide emergency response services or to conduct emergency law enforcement investigations or other emergency activities without authorization by the department or a local board of health. If the department has requested the assistance of law enforcement in enforcing the area quarantine, the department shall provide law enforcement personnel with a list of individuals authorized to enter the area quarantine site.

c. An individual authorized to enter an area quarantine site may be required to wear personal protective equipment as appropriate.

d. No individual, other than an individual authorized by the department or a local board of health, shall remove any item or object from a building, structure, or other physical location subject to area quarantine.

e. An individual entering an area quarantine site without authorization of the department or a local board of health may be isolated or quarantined pursuant to rule 641—1.9(135,139A) and may be found guilty of a simple misdemeanor.

1.13(4) *Area quarantine by local boards of health or the department of public health.*

a. Authority.

(1) The department, through the director, the department's medical director, or the director or medical director's designee, may impose area quarantine through oral or written order. Prior to imposing area quarantine, the department shall attempt to notify the local board or boards of health in the affected geographic area. If attempts to notify the local boards of health are initially unsuccessful, the department shall continue to make regular notification attempts until successful.

(2) A local board of health may impose area quarantine through oral or written order. Prior to imposing area quarantine, a local board of health shall attempt to notify the department by contacting the director, medical director, or department duty officer by telephone. If attempts to notify the department are initially unsuccessful, the local board of health shall continue to make regular notification attempts until successful.

b. *Temporary area quarantine without notice.* The department or a local board of health may temporarily impose area quarantine through an oral order, without notice, only if delay in imposing area quarantine would significantly jeopardize the department's or local board's ability to prevent or contain the spread of a suspected or confirmed quarantinable disease or to prevent or contain exposure to a suspected or known hazardous or toxic agent. If the department or local board imposes temporary area quarantine through an oral order, a written order shall be issued as soon as is reasonably possible and in all cases within 24 hours of issuance of the oral order if continued area quarantine is necessary.

c. *Written order.* The department or local board may impose area quarantine through a written order issued pursuant to this rule.

(1) The written order shall include all of the following:

1. The building or buildings, structure or structures, or other definable physical location, or portion thereof, subject to area quarantine.

2. The date and time at which area quarantine commences and the date and time at which the area quarantine shall be terminated, if known.

3. The suspected or confirmed quarantinable disease or the chemical, biological, radioactive, or other hazardous or toxic agent.

4. A statement of compliance with the conditions and principles for area quarantine specified in subrule 1.13(2).

5. The legal authority under which the order is imposed.

6. The medical or scientific basis upon which area quarantine is justified.

7. A statement advising the owner or owners of the building or buildings, structure or structures, or other definable physical location subject to area quarantine of the right to appeal the written order pursuant to subrule 1.13(5) and the rights of owners of sites subject to area quarantine pursuant to subrule 1.13(6).

8. A copy of 641—Chapter 1 and the relevant provisions of this rule.

(2) A copy of the written order shall be provided to the owner or owners of the building or buildings, structure or structures, or other definable physical location subject to area quarantine within 24 hours of issuance of the order in accordance with any applicable process authorized by the Iowa Rules of Civil Procedure; or, if the order applies to a group of owners and it is impractical to provide individual notice to each owner, the written order shall be posted in a conspicuous place at the site of area quarantine.

1.13(5) *Appeal from order imposing area quarantine.*

a. Contested case. The subject of a department order imposing area quarantine may appeal a written order and has the right to a contested case hearing regarding such appeal. The subject of a department order imposing area quarantine may appeal the order by submitting a written appeal within 10 days of receipt or other notice of the written order. The appeal shall be addressed to the Local Board of Health or to the Department of Public Health, Division of Acute Disease Prevention and Emergency Response, Lucas State Office Building, Des Moines, Iowa 50319-0075. Unless stayed by order of the director or a district court, the written order for area quarantine shall remain in force and effect until the appeal is finally determined and disposed of upon its merits.

b. Presiding officer. The presiding officer in a contested case shall be the director or the director's designee. The director or the director's designee may be assisted by an administrative law judge in conducting the contested case hearing. The decision of the director or the director's designee shall be the agency's final decision and is subject to judicial review in accordance with the provisions of Iowa Code chapter 17A.

c. Proceeding. The contested case hearing shall be conducted in accordance with the provisions contained at 641—Chapter 173. The hearing shall be held as soon as is practicable, and in no case later than 10 days from the date of receipt of the appeal. In extraordinary circumstances and for good cause shown, the department may apply to continue the hearing date on a petition filed pursuant to this paragraph for up to 10 days, which continuance the presiding officer may grant in the presiding officer's discretion giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence.

d. Judicial review. The aggrieved party to the final decision of the department may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petitions for judicial review shall be filed within 30 days after the decision becomes final.

e. Immediate judicial review of department order. The department or local board acknowledges that in certain circumstances the subject or subjects of a department order may desire immediate judicial review of a department order in lieu of proceeding with the contested case process. The department recognizes that the procedural step of pursuing exhaustion of administrative remedies may be inadequate for purposes of Iowa Code section 17A.19, and the department may consent to immediate jurisdiction of the district court when requested by the subject or subjects of a department order and justice so requires. Unless stayed by order of the director or a district court, the written order for area quarantine shall remain in force and effect until the judicial review is finally determined and disposed of upon its merits.

1.13(6) *Rights of owners of sites subject to area quarantine.* An owner of a building, structure, or other physical location subject to area quarantine shall have the following rights:

- a.* The right to be represented by legal counsel.
- b.* The right to be provided with prior notice of the date, time, and location of any hearing.
- c.* The right to participate in any hearing.
- d.* The right to respond and present evidence and argument on the owner's own behalf in any hearing.
- e.* The right to cross-examine witnesses who testify against the owner or individual.
- f.* The right to view and copy all records in the possession of the department which relate to the subject of the written order.

1.13(7) Consolidation of claims. In any proceeding brought pursuant to this rule, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence, the department or a court may order the consolidation of individual claims into group claims, if all of the following conditions exist:

- a.* The number of individuals involved or who may be affected is so large that individual participation is impractical.
- b.* There are questions of law or fact common to the individual claims or rights to be determined.
- c.* The group claims or rights to be determined are typical of the affected individuals' claims or rights.
- d.* The entire group will be adequately represented in the consolidation.

1.13(8) Implementation and enforcement of area quarantine.

a. Jurisdictional issues. The department has primary jurisdiction to impose area quarantine if the quarantinable disease or hazardous or toxic agent has affected more than one county and implicates multicounty or statewide public health concerns. If area quarantine is imposed by the department, a local board of health or local health department may not alter, amend, modify, or rescind the area quarantine order.

b. Assistance of local boards of health and local health departments. If area quarantine is imposed by the department, the local boards of health and the local health departments in the affected areas shall assist in the implementation of the area quarantine.

c. Assistance of law enforcement. Pursuant to Iowa Code section 135.35, all peace officers of the state shall enforce and execute a lawful department order for area quarantine within their respective jurisdictions. The department shall take all reasonable measures to minimize the risk of individual exposure of peace officers and others assisting with enforcement of an area quarantine order.

d. Emergency response, investigation, and decontamination—authority of other agencies. Emergency response, investigation, and decontamination activities in and around an area quarantine site shall be conducted by law enforcement, fire service, emergency medical service providers, or other appropriate federal, state, or local officials in accordance with federal and state law and accepted procedures and protocols for emergency response, investigation, and decontamination. This rule shall not be construed to limit the authority of law enforcement, fire service, emergency medical service providers, or other federal, state, or local officials to conduct emergency response, investigation, or decontamination activities to the extent authorized by federal and state law and accepted procedures and protocols.

e. Penalty. Pursuant to Iowa Code section 135.38, any individual who knowingly violates a lawful department order for area quarantine, whether written or oral, shall be guilty of a simple misdemeanor. The court-ordered sentence may include a fine of up to \$500 and imprisonment not to exceed 30 days.

f. Enforcement action. To enforce a department order for quarantine, the department may file a civil action in Polk County District Court or in the district court for the county in which the area quarantine will be enforced. Such action shall be filed in accordance with the Iowa Rules of Civil Procedure.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

SPECIFIC NONCOMMUNICABLE CONDITIONS

641—1.14(139A) Cancer. Each occurrence of a reportable cancer that is diagnosed or treated in an Iowa resident or occurs in a nonresident who is diagnosed or treated in an Iowa facility shall be reported to the State Health Registry of Iowa, administered by the Department of Epidemiology of the College of Public Health at the University of Iowa, by mail, telephone or electronic means.

1.14(1) Who is required to report. Occurrences of reportable cancers shall be reported by registrars employed by the State Health Registry of Iowa, registrars employed by health care facilities, and health care providers involved in the diagnosis, care, or treatment of individuals with a reportable cancer.

1.14(2) *What to report.* The content of the reports shall include, but not be limited to, follow-up data and demographic, diagnostic, treatment, and other medical information.

1.14(3) *How to report.* For these particular diseases, physicians and other health practitioners should not send a report to the department.

a. The department has delegated to the State Health Registry of Iowa the responsibility for collecting these data through review of records from hospitals, radiation treatment centers, outpatient surgical facilities, oncology clinics, pathology laboratories, and physician offices.

b. Prior to collecting the data from an office or facility, the State Health Registry of Iowa shall work with the office or facility to develop a process for abstracting records which is agreeable to the office or facility.

c. Where applicable, reportable cancers shall be reported on forms developed and distributed by the State Health Registry of Iowa.

d. Data will be supplemented with information obtained from records from hospitals, radiation treatment centers, outpatient surgical centers, oncology clinics, pathology laboratories, and physician offices through an abstracting process developed by the State Health Registry of Iowa.

[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

641—1.15(144) Congenital and inherited disorders. Each occurrence of a congenital and inherited disorder that is diagnosed or treated in an Iowa resident or occurs in a nonresident who is diagnosed or treated in an Iowa facility is a reportable condition, and records of these congenital and inherited disorders shall be abstracted and maintained in a central registry. Congenital and inherited disorder surveillance shall be performed in order to determine the occurrence and trends of congenital and inherited disorders, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with congenital and inherited disorders and their families, and to identify environmental and genetic risk factors for congenital and inherited disorders.

1.15(1) *Who is required to report.* Occurrences of reportable congenital and inherited disorders shall be reported by registrars employed by the Iowa Registry for Congenital and Inherited Disorders, registrars employed by health care facilities, and health care providers involved in the diagnosis, care, or treatment of individuals with reportable congenital and inherited disorders.

1.15(2) *What to report.* The content of the reports shall include, but not be limited to, follow-up data and demographic, diagnostic, treatment, and other medical information. Tissue samples may also be submitted under the authority of this rule.

1.15(3) *How to report.*

a. The department has delegated to the Iowa Registry for Congenital and Inherited Disorders the responsibility for collecting these data through review of records from hospitals, radiation treatment centers, outpatient surgical facilities, oncology clinics, pathology laboratories, and physician offices.

b. Prior to collecting the data from an office or facility, the Iowa Registry for Congenital and Inherited Disorders shall work with the office or facility to develop a process for abstracting records.

1.15(4) *Fetal death (stillbirth).* Each occurrence of a fetal death that occurs in an Iowa resident or occurs in a nonresident who is identified in an Iowa facility is a reportable condition.

a. Providers shall complete the fetal death certificate supplied by the department.

b. Fetal death certificates are to be filed with the department's bureau of vital records within seven days.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

641—1.16(139A) Agriculturally related injury.

1.16(1) *Who is required to report.*

a. Health care providers are required to report all cases of agriculturally related injury attended by them.

b. Clinics, hospitals and other health care facilities are required to report all cases of agriculturally related injury treated at their facility.

c. Health care providers who reside and health care facilities that are located outside the state of Iowa shall report all cases of agriculturally related injury of an Iowa resident that are attended or treated by them.

d. Medical examiners are required to report their investigatory findings of any death occurring within the state of Iowa which was caused by or otherwise involved a reportable agriculturally related injury.

1.16(2) What to report. Each report shall contain all of the following information:

- a. The patient's name.
- b. The patient's address.
- c. The patient's date of birth.
- d. The sex of the patient.
- e. The race and ethnicity of the patient.
- f. The patient's marital status.
- g. The patient's telephone number.
- h. If the patient is female, whether the patient is pregnant.
- i. In the case of occupational conditions, the name of the patient's employer.
- j. The date that the injury occurred.
- k. The name and address of the health care provider who diagnosed and treated the injury, and the name of the reporting site, clinic, or hospital.
- l. Injury diagnosis and description, including diagnostic and external cause of injury codes utilizing the international classification of diseases (ICD) coding system.
- m. Severity of injury.

1.16(3) How to report.

a. All data shall be reported to the department at least quarterly using formats approved by the department. Reports, using the Iowa Agricultural Injury Report Form found at www.idph.state.ia.us, may be submitted by facsimile to (515)281-4529, or by mail to the Iowa Department of Public Health, Bureau of Lead Poisoning Prevention, Occupational Safety and Health Surveillance Program, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Information may also be reported by telephone to 1-800-972-2026 during normal office hours.

b. Trauma centers may report using the Iowa Trauma Patient Registry COLLECTOR software by indicating "Yes" for farm and agriculturally related injury. For more information about using the Iowa Trauma Patient Registry for reporting, contact the Iowa Department of Public Health Bureau of Emergency Medical Services at 1-800-728-3367.

[ARC 8231B, IAB 10/7/09, effective 11/11/09]

CONFIDENTIALITY

641—1.17(139A,22) Confidentiality.

1.17(1) A report or other information provided to or maintained by the department, a local board, or a local department which identifies a person infected with or exposed to a reportable or other disease or health condition is confidential and shall not be accessible to the public.

1.17(2) The identity of a business named in a report or investigation is confidential and shall not be accessible to the public. If information contained in a report or other information provided to or maintained by the department, a local board, or a local department concerns a business, information disclosing the identity of the business may be released to the public when the state public health medical director and epidemiologist or the director determines such a release of information necessary for the protection of the public.

1.17(3) Reportable disease records and information, with the exception of AIDS and HIV records, which identify a person or a business named in a report, may be disclosed under the following limited circumstances:

a. By and between department employees and agents who have a need for the record in the performance of their duties.

b. By and between department employees and agents and local boards of health and local health departments as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

c. By and between department employees and agents and health care providers, laboratories, and hospitals as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

d. By and between department employees and agents and employees and agents of federal, state, and local agencies as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

e. Reportable disease information may be included in a quarantine or isolation order or placard as necessary to prevent the spread of a quarantinable disease.

f. Pursuant to rule 641—175.9(17A,22) or 641—175.10(17A,22).
[ARC 8231B, IAB 10/7/09, effective 11/11/09; ARC 2291C, IAB 12/9/15, effective 1/13/16]

STATE HYGIENIC LABORATORY

641—1.18(135,139A) Specimens for which the fee charged by the state hygienic laboratory shall be waived.

1.18(1) Purpose. Iowa Code section 263.8 and 681—subrule 5.3(1) provide that the state hygienic laboratory shall perform without charge all bacteriological, serological, and epidemiological examinations and investigations which are required by the department and established in rule, including specimens relating to diseases communicable from human to human and from animals to human and any specimen when there is probable cause that a direct threat to public health exists. The purpose of this rule is to designate those examinations which shall be performed by the state hygienic laboratory without charge pursuant to these legal authorities.

1.18(2) Acute infectious diseases. Regardless of the entity that submits the specimen, the following examinations shall be performed by the state hygienic laboratory without charge:

- a.* Anthrax;
- b.* Botulism;
- c.* Cholera;
- d.* Diphtheria;
- e.* Haemophilus influenzae type B invasive disease;
- f.* Measles;
- g.* Meningococcal invasive disease;
- h.* Pulsed-field gel electrophoresis (PFGE) (Listeria, Salmonella, E. coli);
- i.* Plague;
- j.* Poliomyelitis;
- k.* Rabies, animal (human exposure only);
- l.* Rabies, human;
- m.* Smallpox;
- n.* Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA) confirmation;
- o.* Tuberculosis (exception: QuantiFERON-TB Gold testing that is not associated with contact investigation);
- p.* Viral hemorrhagic fever;
- q.* Yellow fever; and
- r.* Under any of the following circumstances:
 - (1) All outbreaks (respiratory and enteric pathogens, and environmental contaminants where justified) shall be reported to the department, and the department will instruct the state hygienic laboratory to waive the fee.
 - (2) Periodic confirmations at the request of the department.
 - (3) All situations where negative stool cultures are being requested for public health purposes.

(4) When the state hygienic laboratory is specifically funded to do testing.

1.18(3) Sexually transmitted disease and infections and HIV/AIDS. The following examinations shall be performed by the state hygienic laboratory without charge if the following defined criteria have been met and if the specimen was sent to the state hygienic laboratory from sites approved by and submitted to the laboratory by the department:

- a. Chlamydia and gonorrhea.
 - (1) All individuals 24 years of age or younger.
 - (2) Individuals above the age of 24 with any of the following:
 1. New or multiple sex partners in the last 90 days;
 2. Persons with reported symptoms consistent with chlamydia or gonorrhea;
 3. Persons with observed clinical signs consistent with chlamydia or gonorrhea or pelvic inflammatory disease (PID);
 4. Persons recently diagnosed with another sexually transmitted infection (STI);
 5. Persons who have a sex partner in one of the other risk groups (new or multiple partners, STI diagnosis); or
 - (3) Women presenting for an intrauterine device (IUD) insertion.
 - (4) Persons who have tested positive within the last four months (i.e., retesting).
 - (5) Persons diagnosed with gonorrhea and treated with alternative regimens as defined by the Centers for Disease Control and Prevention (CDC) (i.e., tests of cure).
- b. Hepatitis B. All unvaccinated individuals at increased risk, including:
 - (1) Men who have sex with men;
 - (2) HIV-positive persons; or
 - (3) Persons who have ever injected drugs.
- c. Maternal hepatitis B.
 - (1) Testing related to case management of HBsAG-positive pregnant women;
 - (2) Household contacts of HBsAG-positive pregnant women tested for infection or immunity (HBsAG, anti-HBs);
 - (3) Children born to HBsAG-positive women (postvaccination serology testing).
- d. Hepatitis C. All individuals at increased risk, including persons who have ever injected drugs.
- e. Herpes simplex virus. Individuals who present with clinical signs of genital herpes.
- f. Human immunodeficiency virus (HIV). All individuals at increased risk, including:
 - (1) Men who have sex with men;
 - (2) Disproportionately impacted populations (as determined by the department based on epidemiological data);
 - (3) Persons who have ever injected drugs;
 - (4) Persons who exchange sex for drugs or money; or
 - (5) Persons with an STI diagnosis within the last 12 months or someone who has a partner in another risk group (IDU, MSM, recent STI, exchange sex for drugs or money).
- g. Syphilis.
 - (1) All individuals at increased risk, including:
 1. Persons who have had signs or symptoms consistent with primary or secondary syphilis within the last 12 months;
 2. Men who have sex with men;
 3. Persons diagnosed with other STIs;
 4. Persons who exchange sex for drugs or money; or
 5. Persons who have recently been treated for syphilis to monitor serologic response (titers) at intervals recommended by the CDC.
 - (2) All pregnant women at first prenatal visit. Tests that are initially reactive will be followed up with a secondary test of different methodology to assist with diagnosis and staging of the infection (i.e.,

specimens reactive using a nontreponemal test will be analyzed using a treponemal test). Testing should be repeated in the third trimester for women at high risk of having been exposed to the infection.
[ARC 2291C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code chapters 135, 136A, 139A, 141A and 144.

APPENDIX A
Iowa Department of Public Health
Table of Reportable Communicable and Infectious Diseases

Report cases of the diseases listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.

IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.

IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases. Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

Report diseases by:

Entering into the Iowa Disease Surveillance System (IDSS): For IDSS-related questions, call the Center for Acute Disease Epidemiology (CADE) at 1-800-362-2736.

Fax: (515)281-5698

Mail:

Iowa Department of Public Health
 Center for Acute Disease Epidemiology
 Lucas State Office Building
 321 E. 12th Street
 Des Moines, Iowa 50319

Isolates or specimens shall be sent to:
 State Hygienic Laboratory at the University of Iowa (SHL)
 U of I Research Park
 2490 Crosspark Road
 Coralville, Iowa 52241-4721

For specimen submission questions, call (319)335-4500 or go to <http://www.shl.uiowa.edu>.

Diseases	When to Report	How to Report
Acquired immune deficiency syndrome (AIDS) and AIDS-defining conditions	7 days	Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> Health care providers: use the Pediatric or Adult Confidential Case Report Form Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease & HIV Infection. Mark envelope "Attention 03"

Diseases	When to Report	How to Report
		For HIV/AIDS-related questions, call (515)242-5141
Anthrax	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Botulism (including infant botulism)	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Brucellosis (Brucella)	3 days	Phone, IDSS, fax or mail
Campylobacteriosis (Campylobacter)	3 days	Phone, IDSS, fax or mail
Chlamydia	3 days	Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> • Use the Iowa Confidential Report of Sexually Transmitted Disease • Mark envelope “Attention 00”
Cholera	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Cryptosporidiosis	3 days	Phone, IDSS, fax or mail
Cyclospora	3 days	Phone, IDSS, fax or mail
Diphtheria	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Escherichia coli shiga toxin-producing and related diseases (includes HUS and TTP)	3 days	Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Giardiasis (Giardia)	3 days	Phone, IDSS, fax or mail
Gonorrhea	3 days	Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> • Use the Iowa Confidential Report of Sexually Transmitted Disease • Mark envelope “Attention 00”
Haemophilus influenzae type B invasive disease	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Hansen’s disease (leprosy)	3 days	Phone, IDSS, fax or mail
Hantavirus syndromes	3 days	Phone, IDSS, fax or mail
Hepatitis A	1 day	Phone, IDSS or fax
Hepatitis B, C, D, E	3 days	Phone, IDSS, fax or mail

Diseases	When to Report	How to Report
Human immunodeficiency virus (HIV) cases Death of a person with HIV Perinatally exposed newborn and child (newborn and child who was born to an HIV-infected mother)	7 days	Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> Health care providers: use the Pediatric or Adult Confidential Case Report Form Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease & HIV Infection. Mark envelope "Attention 03" For HIV/AIDS-related questions, call (515)242-5141
Legionellosis (Legionella)	3 days	Phone, IDSS, fax or mail
Listeria monocytogenes invasive disease	1 day	Phone, IDSS, or fax Laboratories send isolate or specimen to the SHL
Malaria	3 days	Phone, IDSS, fax or mail
Measles (rubeola)	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Meningococcal invasive disease	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Mosquito-borne diseases (includes chikungunya, dengue, eastern equine encephalitis, La Crosse, St. Louis, Venezuelan equine encephalitis, West Nile, and western equine encephalitis)	3 days	Phone, IDSS, fax or mail
Mumps	3 days	Phone, IDSS, fax or mail
Pertussis	3 days	Phone, IDSS, fax or mail
Plague	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Poliomyelitis	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Psittacosis	3 days	Phone, IDSS, fax or mail
Q fever	3 days	Phone, IDSS, fax or mail
Rabies, animal	3 days	Phone, IDSS, fax or mail
Rabies, human	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Rubella (including congenital)	1 day	Phone, IDSS, or fax
Salmonellosis (Salmonella)	3 days	Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Severe acute respiratory syndrome (SARS)	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Shigellosis (Shigella)	3 days	Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Smallpox	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736

Diseases	When to Report	How to Report
Syphilis	3 days	Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> • Use the Iowa Confidential Report of Sexually Transmitted Disease • Mark envelope "Attention 00"
Tetanus	3 days	Phone, IDSS, fax or mail
Tickborne diseases (includes anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, and Rocky Mountain spotted fever)	3 days	Phone, IDSS, fax or mail
Tuberculosis, pulmonary and laryngeal (infectious)	1 day	Phone (515)281-7504 or fax to (515)281-4570
Tuberculosis, extrapulmonary	3 days	Phone (515)281-7504 or fax to (515)281-4570
Tularemia	3 days	Phone, IDSS or fax
Typhoid fever	1 day	Phone, IDSS or fax
Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA)	1 day	Phone, IDSS or fax
Viral hemorrhagic fever (VHF) (e.g., Lassa, Marburg, Ebola, and Crimean-Congo)	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736
Yellow fever	Immediately	24/7 disease reporting telephone hotline: 1-800-362-2736

[ARC 2291C, IAB 12/9/15, effective 1/13/16]

APPENDIX B
Iowa Department of Public Health
Table of Reportable Poisonings and Conditions

Report cases of the poisonings and conditions listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.

IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.

IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases. Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

Mailing address:

Bureau of Environmental Health Services
 Iowa Department of Public Health
 321 East 12th Street
 Des Moines, Iowa 50319-0075

Telephone: 1-800-972-2026

Fax: (515)281-4529

Poisoning or Condition	Cases to Report	When to Report	How to Report
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Blood lead testing	All analytical results greater than or equal to 20 micrograms per deciliter (µg/dL) in a child under the age of 6 years or a pregnant woman	Daily	By telephone: 1-800-972-2026
	All other analytical values for all blood lead analyses	Weekly	Electronic format specified by the department
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

Poisoning or Condition	Cases to Report	When to Report	How to Report
Carbon monoxide (CO) poisoning	Blood carbon monoxide level equal to or greater than 10% carboxyhemoglobin or its equivalent with a breath analyzer test, or a clinical diagnosis of CO poisoning regardless of any test results	Daily	By telephone: 1-800-972-2026
Hypersensitivity pneumonitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Mercury poisoning	Blood mercury values equal to or greater than 2.8 µg/dL Urine mercury values equal to or greater than 20 µg/L	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Methemoglobinemia	Blood analyses showing greater than 5% of total hemoglobin present as methemoglobin	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Microcystin toxin poisoning	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Noncommunicable respiratory illness	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Pesticide poisoning (including pesticide-related contact dermatitis)	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Severe skin disorder	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Toxic hepatitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

[ARC 9250B, IAB 12/1/10, effective 11/10/10; ARC 2291C, IAB 12/9/15, effective 1/13/16]

[Filed November 20, 1970; amended August 31, 1971]

[Filed emergency 8/15/77—published 9/7/77, effective 8/15/77]

[Filed 11/10/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]

[Filed 4/3/81, Notice 2/18/81—published 4/29/81, effective 6/5/81]

[Filed 2/12/82, Notice 10/28/81—published 3/3/82, effective 4/7/82]

[Filed 11/18/83, Notice 8/31/83—published 12/7/83, effective 1/13/84]

[Filed 8/14/85, Notice 4/24/85—published 9/11/85, effective 10/16/85]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 11/17/88, Notice 6/1/88—published 12/14/88, effective 1/18/89]

[Filed 5/10/89, Notice 4/5/89—published 5/31/89, effective 7/5/89]

[Filed 11/9/89, Notice 10/4/89—published 11/29/89, effective 1/3/90]

[Filed 9/24/90, Notice 8/8/90—published 10/17/90, effective 11/21/90]
[Filed 7/17/92, Notice 4/1/92—published 8/5/92, effective 9/9/92]
[Filed 11/6/92, Notice 9/16/92—published 11/25/92, effective 1/1/93]
[Filed 7/16/93, Notice 4/28/93—published 8/4/93, effective 9/8/93]
[Filed emergency 1/11/96 after Notice 11/8/95—published 1/31/96, effective 1/12/96]
[Filed 3/15/96, Notice 1/31/96—published 4/10/96, effective 5/15/96]
[Filed 7/10/98, Notice 5/6/98—published 7/29/98, effective 9/2/98]
[Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 1/6/99]
[Filed 5/10/01, Notice 4/4/01—published 5/30/01, effective 7/4/01]
[Filed emergency 9/14/01—published 10/3/01, effective 9/14/01]
[Filed 11/19/01, Notice 10/3/01—published 12/12/01, effective 1/16/02]◇
[Filed 1/16/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 1/13/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]
[Filed 5/12/05, Notice 3/30/05—published 6/8/05, effective 7/13/05]
[Filed 1/10/07, Notice 11/22/06—published 1/31/07, effective 3/7/07]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed ARC 8231B (Notice ARC 7966B, IAB 7/15/09), IAB 10/7/09, effective 11/11/09]
[Filed Emergency ARC 9250B, IAB 12/1/10, effective 11/10/10]
[Filed ARC 0754C (Notice ARC 0672C, IAB 4/3/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 2291C (Notice ARC 2083C, IAB 8/5/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 3
EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

641—3.1(135) Definitions. For the purposes of this chapter, the following definitions will apply:

“Applicant” means a child for whom assistance under this program is being requested.

“Area education agency” or *“AEA”* means an intermediate educational unit created by Iowa Code chapter 273.

“Audiologist” means a person licensed pursuant to Iowa Code chapter 147 or certified by the Iowa board of educational examiners pursuant to 282—15.3(272) or a person appropriately licensed in the state where the person practices.

“Audiology assistant” means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in 645—Chapter 300.

“Audiometrist” means a technician who has received special training in the use of pure-tone audiometry equipment. An audiometrist conducts the hearing tests selected and interpreted by an audiologist, who supervises the process.

“Birth center” means *“birth center”* as defined in Iowa Code section 135.61.

“Birthing hospital” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

“Contractor” means the entity selected by the department to act as third-party administrator for claims payment related to hearing aids and audiologic services for children.

“Department” means the Iowa department of public health.

“Diagnostic audiologic assessment” means physiologic or behavioral procedures completed by an audiologist to evaluate and diagnose hearing loss.

“Discharge” means a release from a birthing hospital to the parent or legal guardian of the child.

“Early ACCESS” means Iowa’s Individuals with Disabilities Education Act (IDEA), Part C, program for infants and toddlers. It is a statewide, comprehensive, interagency system of integrated early intervention services that supports eligible children and their families as defined in 281—Chapter 120.

“Early hearing detection and intervention advisory committee” or *“EHDI advisory committee”* means the committee appointed by the department to advise the director of the department regarding issues related to hearing health care for children and to make recommendations about the design and implementation of the early hearing detection and intervention program.

“Guardian” means a person who is not the parent of a minor child, but who has legal authority to make decisions regarding life or program issues for the child. A guardian may be a court or a juvenile court. “Guardian” does not mean conservator, as defined in Iowa Code section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

“Health care professional” means a licensed physician, nurse practitioner, physician assistant, certified midwife, registered nurse, licensed practical nurse, patient care technician, certified nursing assistant, licensed audiologist, audiology assistant, audiometrist, hearing aid specialist, speech-language pathologist or other licensed or certified professional for whom hearing screening is within the professional’s scope of practice.

“Hearing loss” means a permanent unilateral or bilateral hearing loss of greater than 30 dB HL in the frequency region important for speech recognition (500-4000 Hz).

“Hearing screening” means a physiological measurement of hearing of a newborn or infant with a “pass” or “refer” result. Screening is used to determine the newborn’s or infant’s need for further testing and must be performed bilaterally, when applicable.

“Initial screening” or *“newborn hearing screening”* means a screening performed in a birthing hospital, birth center or facility other than a birthing hospital within the first month of life.

“Newborn hearing screening” means a physiological test to separate those newborns with normal hearing from those newborns who may have hearing thresholds of greater than 30 dB HL in either ear in the frequency region important for speech recognition (500-4000 Hz).

“Normal hearing” means hearing thresholds in both ears of 30 dB HL or less in the frequency region important for speech recognition (500-4000 Hz).

“Parent” means:

1. A biological or adoptive parent of a child;
2. A guardian, but not the state if the child is a ward of the state;
3. A person acting in the place of a parent, such as a grandparent or stepparent with whom a child lives, or a person who is legally responsible for the child’s welfare;
4. A surrogate parent who has been assigned in accordance with 281—120.68(34CFR303); or
5. A foster parent, if:
 - A biological parent’s authority to make the decisions required of parents under state law has been terminated; and
 - The foster parent has an ongoing, long-term parental relationship with the child; is willing to make the decisions required of a parent; and has no interest that would conflict with the interests of the child.

“Physician” means an individual licensed under Iowa Code chapter 148, 150, or 150A.

“Primary care provider” means a licensed physician, nurse practitioner, physician assistant or certified midwife who undertakes primary pediatric care responsibility for an infant or child to provide ongoing medical care and referrals to promote overall health and well-being.

“Protocol” means a document which guides decision making and provides the criteria to be used regarding screening, diagnosis, management, and treatment of children related to hearing health care. Early hearing detection and intervention protocols not otherwise specified in this chapter are available on the department’s Web site at www.idph.iowa.gov.

“Provider” means a licensed audiologist, otolaryngologist or hearing aid specialist who agrees to provide hearing aids or audiologic services to eligible patients.

“Rescreen” means a newborn hearing screening performed after two weeks of age on an infant who did not pass the initial screening.

“Resident” means an individual who is a legal resident of the state of Iowa.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.2(135) Purpose. The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code section 135.131 relative to the following:

1. Universal hearing screening of all newborns and infants in Iowa.
2. Facilitating the transfer of data to the department to enhance the capacity of agencies and practitioners to provide services to children and their families.
3. Establishing procedures for infants who were not screened or do not pass their initial hearing screening to receive appropriate follow-up to determine if the infants have normal hearing or have hearing loss.
4. Establishing the procedure for distribution of funds to support the purchase of hearing aids and audiologic services for children.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.3(135) Goal and outcomes. The goal of universal hearing screening of all newborns and infants in Iowa is early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

641—3.4(135) Program components.

3.4(1) The EHDI coordinator assigned within the department provides administrative oversight, including follow-up activities, for the EHDI program within Iowa.

3.4(2) The EHDI advisory committee represents the interests of the people of Iowa and assists in the development of programming that ensures the availability and access to quality hearing health care for Iowa children.

3.4(3) The EHDI program has an association with the Iowa Title V maternal and child health programs to promote comprehensive services for infants and children with special health care needs.

3.4(4) The EHDI program provides hearing screening surveillance and follow-up for infants and children under the age of three. Follow-up may include:

a. Contact with the parent or legal guardian of an infant who was not screened or does not pass the initial hearing screening, outpatient hearing screening or diagnostic audiologic assessment.

b. Contact with the infant's primary care provider to ensure the infant receives appropriate follow-up no later than the recommended time line as outlined in the Joint Committee on Infant Hearing position statement at www.jcih.org.

c. Contact with the birthing hospital or health care professional for inquiries on missing results, data entry discrepancies and recommendations for additional referrals.

d. Referrals to family support or early intervention service providers for infants or toddlers diagnosed with a hearing loss.

e. Technical assistance to birthing facilities, primary care providers and health care professionals regarding best practices related to newborn hearing screening, diagnosis and follow-up best practices.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.5(135) Screening the hearing of all newborns. All newborns and infants born in Iowa, except those born with a condition that is incompatible with life, shall be screened for hearing loss. The person required to perform the screening shall use at least one of the following procedures:

1. Automated or screening auditory brainstem response, or

2. Evoked otoacoustic emissions.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

641—3.6(135) Procedures required of birthing hospitals. Each birthing hospital in Iowa shall follow these procedures:

3.6(1) Each birthing hospital shall designate an employee of the hospital to be responsible for the newborn hearing screening program in that institution. If a birthing hospital contracts with a third party for newborn screening services, the hospital retains ultimate responsibility for screening and reporting.

3.6(2) Prior to the discharge of the newborn, each birthing hospital shall provide hearing screening to every newborn delivered in the hospital, except in the following circumstances:

a. The newborn is transferred for acute care prior to completion of the hearing screening.

b. The newborn is born with a condition that is incompatible with life.

3.6(3) If a newborn is transferred for acute care, the birthing hospital shall notify the receiving facility of the status of the hearing screening. The receiving facility shall then be responsible for completion of the newborn hearing screening prior to discharge of the newborn from the nursery.

3.6(4) Newborn hearing screening shall be performed by a health care professional.

3.6(5) The birthing hospital shall report newborn hearing screening results to the parent or guardian in written form.

3.6(6) The birthing hospital shall report newborn hearing screening results to the department pursuant to 641—3.9(135).

3.6(7) The birthing hospital shall report the results of the hearing screening to the primary care provider of the newborn or infant upon the newborn's or infant's discharge from the birthing hospital. If the newborn or infant was not tested prior to discharge, the birthing hospital shall report the status of the hearing screening to the primary care provider of the newborn or infant.

3.6(8) The birthing hospital shall follow the hearing screening protocols prescribed by the department.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.7(135) Procedures required of birth centers. Each birth center in Iowa shall follow these procedures:

3.7(1) Each birth center shall designate an employee of the birth center to be responsible for the newborn hearing screening program in that institution.

3.7(2) Prior to discharge of the newborn, each birth center shall refer every newborn delivered in the birth center to a health care professional for a newborn hearing screening. Before discharge of the newborn, the birth center shall arrange an appointment for the newborn hearing screening no more than 15 days from the date of discharge and report the appointment time, date and location to the parent.

3.7(3) The health care professional to whom the newborn is referred for screening shall complete the screening within 30 days of the newborn's discharge from the birth center, unless the parent fails to attend the appointment. If the parent fails to attend the appointment, the health care professional shall document such failure in the medical or educational record and shall report such failure to the department.

3.7(4) The health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

3.7(5) The health care professional who completes the newborn hearing screening shall report screening results to the department pursuant to 641—3.9(135).

3.7(6) The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

3.7(7) The person who completes the screening shall follow the hearing screening protocols prescribed by the department.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.8(135) Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening.

3.8(1) The primary care provider who undertakes primary pediatric care of a newborn delivered in a location other than a birthing hospital or birth center shall refer the newborn to a health care professional for completion of the newborn hearing screening no later than one month of age. The health care professional shall arrange an appointment for the newborn hearing screening and report to the parent the appointment time, date, and location.

3.8(2) The health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

3.8(3) The health care professional who completes the newborn hearing screening shall report screening results to the department pursuant to 641—3.9(135). If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

3.8(4) The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

3.8(5) The person who completes the newborn hearing screening shall follow the hearing screening protocols prescribed by the department.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.9(135) Reporting hearing screening results and information to the department and child's primary care provider. Any birthing hospital, birth center, physician, audiologist or other health care professional required to report information pursuant to Iowa Code section 135.131 shall report all of the following information to the department relating to each newborn's hearing screening within six working days of the birth of the newborn and within six working days of any hearing rescreen, utilizing the department's designated reporting system.

3.9(1) The name, date of birth, and gender of the newborn.

3.9(2) The name, address, and telephone number, if available, of the mother of the newborn. If the mother is not the person designated as legally responsible for the child's care, the name, address, and telephone number of the parent, as defined in 641—3.1(135), shall be reported.

3.9(3) The name of the primary care provider for the newborn upon the newborn's discharge from the birthing hospital or birth center.

3.9(4) The results of the newborn hearing screening, either “pass,” “refer,” or “not screened,” for each ear separately.

3.9(5) The results of any rescreening, either “pass” or “refer,” and the diagnostic audiologic assessment procedures used for each ear separately.

3.9(6) Known risk indicators for hearing loss of the infant or child.

3.9(7) If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

3.9(8) The person who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the infant or child.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department and child’s primary care provider. Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results within six working days for any child under three years of age to the department utilizing the department’s designated reporting system. The health care professional shall conduct the diagnostic hearing assessment in accordance with the Pediatric Audiologic Diagnostic Protocol prescribed by the department at www.idph.iowa.gov. Results of a hearing screen, rescreen or diagnostic audiologic assessment shall be reported as follows.

3.10(1) Reports shall include:

- a. The name, date of birth, and gender of the child.
- b. The name, address, and telephone number, if available, of the mother of the child. If the mother is not the person designated as legally responsible for the child’s care, the name, address, and telephone number of the parent, as defined in 641—3.1(135), shall be reported.
- c. The name of the primary care provider for the child.
- d. Known risk indicators for hearing loss.
- e. The date the child is fit with a hearing aid(s) or a cochlear implant(s), if applicable.
- f. The date of referral to early intervention, if applicable.
- g. The date of referral to family support, if applicable.

3.10(2) Results of the newborn hearing screening shall be reported as either “pass” or “refer” for each ear separately.

3.10(3) Results of the hearing rescreen shall be reported as either “pass” or “refer” for each ear separately.

3.10(4) If an assessment results in a diagnosis of normal hearing for both ears, this shall be reported.

3.10(5) Any diagnosis of hearing loss shall also be reported except for transient conductive hearing loss lasting for less than 90 days in the professional judgment of the practitioner. This exception will apply only if the child passed the initial hearing screening or rescreening or had a diagnostic assessment resulting in normal hearing for both ears.

3.10(6) Diagnostic audiologic assessment results shall include a statement of the severity (mild, moderate, moderately severe, severe, profound, or undetermined) and type (sensorineural, conductive, mixed, or undetermined) of hearing loss.

3.10(7) Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results to the primary care provider of the infant or child.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.11(135) Sharing of information and confidentiality. Reports, records, and other information collected by or provided to the department relating to a child’s newborn hearing screening, rescreen, diagnostic audiologic assessment, and early intervention enrollment are confidential records pursuant to Iowa Code section 22.7.

3.11(1) Personnel of the department shall maintain the confidentiality of all information and records used in the review and analysis of newborn hearing screenings, rescreens, diagnostic audiologic assessments, and early intervention enrollment, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

3.11(2) No individual or organization providing information to the department in accordance with this rule shall be deemed to be or held liable for divulging confidential information.

3.11(3) The department shall not release confidential information except to the following persons and entities under the following conditions:

- a. The parent or guardian of an infant or child for whom the report is made.
- b. A local birth-to-three coordinator with the Early ACCESS program or an agency under contract with the department to administer the children with special health care needs program.
- c. A health care professional or primary care provider.
- d. A representative of a federal or state agency, to the extent that the information is necessary to perform a legally authorized function of that agency.
- e. A representative of a state agency, or an entity bound by that state, to the extent that the information is necessary to perform newborn hearing screening follow-up. The state agency or the entity bound by that state shall be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. The state agency or the entity bound by that state shall not use the information obtained from the department to market services to patients or nonpatients or identify patients for any purposes other than those expressly provided in this rule.

3.11(4) Research purposes. All proposals for research using the department's data to be conducted by persons other than program staff shall first be submitted to and accepted by the researchers' institutional review board. Proposals shall then be reviewed and approved by the department before research can commence.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.12(135) Reporting requirements for AEAs. Rescinded IAB 10/7/09, effective 11/11/09.

641—3.13(135) Procedure to accommodate parental objection. These rules shall not apply if the parent objects to the hearing screening.

3.13(1) If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian on the department newborn hearing screening or diagnostic assessment refusal form and shall maintain the original copy of the written refusal in the newborn's, infant's or child's medical record.

3.13(2) The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written newborn hearing screening or diagnostic assessment refusal form to the department within six days of the birth of the newborn.

3.13(3) If a parent objects to a hearing rescreen or diagnostic assessment orally to a department EHDI staff member during follow-up, the staff member shall document the refusal in the department's designated reporting system and mail to the parent or guardian the department newborn hearing screening or diagnostic assessment refusal form in an attempt to obtain a written refusal to be maintained in the newborn's, infant's or child's medical record.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.14(135) Civil/criminal liability. A person who acts in good faith in complying with these rules shall not be held civilly or criminally liable for reporting the information required.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

641—3.15(135) Early hearing detection and intervention advisory committee.

3.15(1) Membership. The membership of the advisory committee shall be geographically representative of stakeholders with an interest in and concern for newborn hearing screening and follow-up. The advisory committee shall be appointed by the department director and consist of no more than 25 members and include the state EHDI coordinator. The EHDI coordinator will assist in facilitation of committee meetings. Membership will include a minimum of one representative from each of the following areas:

- a. Advocate (e.g., office of deaf services).
- b. Audiology.

- c. Children with special health care needs program.
- d. Deaf/hard-of-hearing community.
- e. Early intervention services.
- f. Ears, nose and throat specialist/otolaryngologists.
- g. Family support.
- h. Iowa Hospital Association or designee.
- i. Hospitals (preferably hearing screening coordinator).
- j. Parent(s) of deaf or hard-of-hearing child.
- k. Family practice physician.
- l. Pediatrician.
- m. Representation from a state agency that is not the department.

3.15(2) Meetings. The committee shall meet three times per year. Location and times will be prescribed by the department.

3.15(3) Voting. The committee will make its recommendations by consensus. In the event that consensus cannot be reached within a reasonable time frame, there will be a majority rule, as in a simple majority of those present or more than 50 percent. At least 50 percent of the members must be present.

3.15(4) Service, vacancies and attendance.

a. Each committee member is appointed to serve a term of three years. Members may serve longer at the request of the department director unless their absence at meetings exceeds that permitted by the attendance policy. Terms for existing members will begin at the first of the year or as positions vacate. The term for a new member replacing a member before the member's term is up will begin when the vacancy is filled.

b. Vacancies will be filled within six months. The term will begin when the vacancy is filled. The EHDI coordinator will work with advisory committee members, EHDI program staff and associations to identify new members. Names and short biographies will be given to the department director to make a final determination for committee member vacancies.

c. Committee members are expected to be present in person for advisory committee meetings with the exception of extenuating circumstances that have been communicated to the state EHDI coordinator. Any member who cannot attend the scheduled meetings should notify the state EHDI coordinator at least 24 hours prior to the start of the regularly scheduled meeting. If there are extenuating circumstances and a member can send a representative, the member is encouraged to do so. Appointed members may be recommended for dismissal from the committee if the members miss more than two meetings per year.

[ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.16 Reserved

HEARING AIDS AND AUDIOLOGIC SERVICES FUNDING PROGRAM

641—3.17(83GA, HF811) Eligibility criteria. The enrollment process to determine eligibility for services under this program includes the following requirements:

3.17(1) Age. Individuals are eligible from birth through 20 years of age.

3.17(2) Residency. Individuals must currently reside in Iowa.

3.17(3) The applicant must not be eligible for hearing aids or audiologic services under Title XIX or HAWK-I.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

641—3.18(83GA, HF811) Covered services.

3.18(1) Funding does not cover either the surgical costs associated with a cochlear or Baha implant or the cost of the devices.

3.18(2) Funding does not pay for services covered by insurance.

3.18(3) The following hearing aids and audiologic services may be provided through the hearing aids and audiologic services funding program:

- 1. Repair/modification of hearing aid

2. Hearing aid, monaural, behind the ear
3. Hearing aid dispensing fee, monaural
4. Hearing aid, binaural, in the ear
5. Hearing aid, binaural, behind the ear
6. Hearing aid dispensing fee, binaural
7. Hearing aid, bicos, glasses
8. Ear mold/insert, not disposable, any type
9. Battery for use in hearing aid
10. Hearing aid supplies, accessories
11. Assistive listening device, not otherwise specified
12. Assistive listening device, dispensing
13. Service handling charge
14. Service charge, ear mold
15. Annual charge, ear mold
16. Pure tone audiometry, air only
17. Pure tone audiometry, air and speech audiometry threshold
18. Speech audiometry threshold
19. Speech audiometry threshold with speech
20. Comprehensive audiometry threshold evaluation
21. Tympanometry (impedance testing)
22. Conditioning play audiometry
23. Auditory-evoked potentials for evoked response audiometry, comprehensive
24. Auditory-evoked potentials for evoked response audiometry, limited
25. Visual reinforcement audiometry
26. Evoked otoacoustic emissions, limited
27. Hearing aid examination and selection, monaural
28. Hearing aid examination and selection, binaural
29. Hearing aid check, monaural
30. Hearing aid check, binaural
31. Electroacoustic evaluation for hearing aid, monaural
32. Electroacoustic evaluation for hearing aid, binaural
33. Office/outpatient visit related to audiologic services
34. Consultations related to audiologic services

3.18(4) The department may elect to cover additional services not otherwise restricted in these rules.
 [ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.19(83GA, HF811) Application procedures.

3.19(1) A child, or the parent or guardian of a child, desiring hearing aids or audiologic services may apply to the contractor.

3.19(2) The following information shall be provided to the contractor by the applicant to be considered for eligibility under this program:

- a. Patient's first name, middle initial and last name.
- b. Patient's date of birth.
- c. Patient's address, including city, state and ZIP code.
- d. Parent/guardian's first name, middle initial and last name.
- e. Parent/guardian's telephone number.
- f. Parent/guardian's E-mail address.
- g. Parent/guardian's or child's medical insurance plan coverage.
- h. Hearing aid/audiologic service provider name and telephone number.
- i. Whether the request is for hearing aids or audiologic services or both.
- j. Estimated service costs.

3.19(3) Applicants will be enrolled in the program on a first-come, first-served basis upon the date the application is received by the contractor.

3.19(4) The contractor will provide written notification to the applicant regarding determination of eligibility or noneligibility and the applicant's right to appeal a denial. For those applicants deemed eligible, an enrollee number will be assigned by the contractor.

3.19(5) An applicant must submit a renewal application form on an annual basis, accompanied by all information requested by the department.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.20(83GA, HF811) Hearing aids and audiologic services funding wait list.

3.20(1) If an applicant is eligible for hearing aid and audiologic services funding and sufficient funds are available to provide services to the applicant, the contractor shall enroll the applicant upon approval by the department. If the applicant is eligible for hearing aid and audiologic services funding and sufficient funds are not available to provide services to the applicant, the contractor upon approval by the department shall place the applicant's name on the hearing aid and audiologic services funding wait list in the order provided for in this rule.

3.20(2) The contractor, upon approval by the department, shall place names on the wait list in the following order:

- a. Applicants under the age of three diagnosed with a hearing loss who are in need of hearing aids.
- b. Applicants in need of hearing aids or audiologic services.
- c. All other applicants, who shall be placed on the wait list in chronological order based upon the date of receipt of a completed application by the contractor upon approval by the department.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

641—3.21(83GA, HF811) Reimbursement of providers.

3.21(1) To receive reimbursement for hearing aids and audiologic services, the provider must complete a provider information sheet and I-9 form provided by the department.

3.21(2) The provider must be a Title XIX provider.

3.21(3) Reimbursement of hearing aids and audiologic services will be paid directly to the provider based on Title XIX reimbursement rates.

a. Bills will be adjusted accordingly by the department prior to payment.

b. Reimbursement for hearing aids or supplemental hearing devices includes the costs of shipping and handling.

3.21(4) Hearing aids and audiologic services funding shall be the payor of last resort.

3.21(5) Payment through this funding source is considered payment in full for covered services. If a third party liability (TPL) payment equals or exceeds the Title XIX allowance, no further reimbursement is provided.

3.21(6) The provider shall submit bills after an enrollee number is assigned to the applicant and the audiologic service is provided or hearing aid is fitted.

3.21(7) The provider shall submit the following documents:

a. Centers for Medicare and Medicaid Services Form CMS 1500. Forms will be furnished by the providers and will include the applicant's enrollee number in the upper right-hand corner of the form.

b. Manufacturer's invoice for hearing devices as prescribed by the department.

c. Applicant's explanation of benefits or documentation of a telephone contact made by the provider to the patient's private insurance company including: date of contact, name of insurance representative, name of insurance company, applicant's policy number and coverage limitations for hearing evaluations and devices.

[ARC 8232B, IAB 10/7/09, effective 11/11/09; ARC 2290C, IAB 12/9/15, effective 1/13/16]

641—3.22(83GA, HF811) Appeals. The department shall cause an applicant to be notified of the department's decision to approve or deny an application or to place an applicant on the child hearing aids and audiologic services wait list. In the event an applicant is dissatisfied with the department's decision, the applicant may submit a formal appeal in writing to the EHDI advisory committee. Such

request shall be delivered in person or shall be mailed by certified mail, return receipt requested, to EHDI Advisory Committee, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Upon receipt of such an appeal, the EHDI advisory committee shall review the case and issue a written determination within 15 days of receipt of the request. The decision shall refer to the applicant by initials or other nonidentifying means. The EHDI advisory committee's decision shall be final and binding. This appeal process does not constitute a contested case proceeding as defined in Iowa Code chapter 17A.

[ARC 8232B, IAB 10/7/09, effective 11/11/09]

These rules are intended to implement Iowa Code section 135.131 as amended by 2009 Iowa Acts, House File 314, division II, and 2009 Iowa Acts, House File 811, division IV, section 60(2) "c. "

[Filed emergency 11/17/03 after Notice 10/1/03—published 12/10/03, effective 1/1/04]

[Filed 9/18/06, Notice 7/19/06—published 10/11/06, effective 11/15/06]

[Filed ARC 8232B (Notice ARC 7967B, IAB 7/15/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 2290C (Notice ARC 2082C, IAB 8/5/15), IAB 12/9/15, effective 1/13/16]

Appendix A
Pediatric Audiologic Diagnostic Protocol
Rescinded IAB 12/9/15, effective 1/13/16

CHAPTER 15 SWIMMING POOLS AND SPAS

641—15.1(135I) Applicability.

15.1(1) These rules apply to swimming pools, spas, wading pools, water slides, wave pools, spray pads, and bathhouses connected to swimming pools owned or operated by local or state government, or commercial interests or private entities including, but not limited to, public or private school corporations, hotels, motels, camps, apartments, condominiums, health clubs and country clubs. These rules do not apply to a residential swimming pool or spa that is permanently installed in a single-family dwelling, to a decorative fountain, or to a therapeutic swimming pool or spa which is under the direct supervision of qualified medical personnel.

15.1(2) These rules do not apply to a swimming pool or spa operated by a homeowners association representing 72 or fewer dwelling units if the association bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or a local inspection agency, and assume any liability associated with operation of the swimming pool and spa. The association shall notify the department in writing if the association bylaws are amended as above. The inspector designated by the association shall be a certified operator as defined in 15.3(1). A report of the inspection shall be filed with the association secretary and shall be available to any association member on request.

641—15.2(135I) Scope. These rules stipulate minimum safety and water quality requirements for the operation of swimming pools and spas; standards for construction; procedures for registration; qualifications for swimming pool and spa inspectors; qualifications for swimming pool and spa operators and lifeguards; and procedures for health departments to provide for the inspection of swimming pools and spas and enforcement of these rules. Swimming pools and spas which are in compliance with these rules must also comply with the requirements of any other applicable federal, state or local laws, rules or ordinances.

641—15.3(135I) Definitions and abbreviations.

15.3(1) Definitions.

“Air break” is a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into a fixture, receptacle, or interceptor at a point below the flood-level rim of the receptacle.

“Air gap” means the unobstructed vertical distance through the free atmosphere between the lowest opening from an inlet pipe and the flood-level rim of a receptacle or floor drain.

“Board of health” means a county, city, or district board of health.

“Body feed” means the continuous addition of controlled amounts of filtering aid during the operation of a diatomaceous earth filter to maintain a permeable filter cake. This is sometimes referred to as a “slurry feed.”

“Certified operator” means a person who has:

1. Successfully completed the Certified Pool/Spa Operator® course sanctioned by NSPF, the Aquatic Facility Operator course sanctioned by NRPA, the Professional Pool & Spa Operator course sanctioned by the APSP, the Licensed Aquatic Facility Technician course sanctioned by the American Swimming Pool and Spa Association, or an equivalent course approved by the department; and
2. Been recertified as required by the sanctioning organization; and
3. Obtained the continuing education required by 15.11(2).

“Combined chlorine” means nitrogen-chlorine compounds formed by the reaction of a chlorine disinfectant chemical with ammonia and organic nitrogen compounds as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department. Another term for combined chlorine is “chloramines.”

“Construction” means the installation of a new swimming pool facility. “Construction” includes modifications to an existing facility which change the total recirculated water volume or the total water surface area by 20 percent or more.

“Deck” means a walkway immediately adjacent to a swimming pool.

“Decorative fountain” means a basin equipped with water sprays or jets that does not serve primarily as a wading or swimming pool and whose drain is not directly connected to any type of suction device for removing or recirculating the water.

“Deep water” means those areas of a swimming pool where the water is more than five feet deep.

“Department” means the Iowa department of public health.

“Di-chlor” means sodium dichloro-s-triazinetriene dihydrate. Di-chlor is a form of chlorine that includes cyanuric acid in its formulation.

“Engineering plans” means plans and specifications certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in the state of Iowa.

“Equalizer” means an arrangement including a pipe from an opening below the water level in a swimming pool or spa to the body of a skimmer and a normally closed valve at the skimmer body. The arrangement is designed to automatically prevent air from being drawn into the pump when the water level drops below the skimmer inlet. The equalizer opening in a swimming pool or spa is a fully submerged outlet.

“Facility” means a building, fenced enclosure, or lot where there is at least one swimming pool or spa subject to regulation under Iowa Code chapter 135I and these rules.

“Field fabricated,” when applied to a sump or a cover/grate for a fully submerged outlet, means constructed on site with conventional building materials or of a size and shape different from readily available commercial sumps or cover/grates.

“Fill and drain wading pool” means a wading pool having no recirculation system.

“Filter” means a mechanical device for removing suspended particles from the swimming pool water and refers to the complete mechanism including all component parts.

“Flow rating,” when applied to the cover/grate for a fully submerged outlet, means the maximum flow rate in gpm through the cover/grate that will not cause body or hair entrapment as determined by the test methods in the ASME standard.

“Fountain” means a water fountain that is not established primarily for swimming or wading, but where swimming or wading is allowed, and that has a drain which is connected to a mechanical suction device for removing or recirculating the water.

“Free chlorine” means the concentration of hypochlorous acid and hypochlorite ion in the swimming pool water as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department.

“Fully submerged outlet” means an outlet that is completely under water when the water is at the normal operating level.

“Gravity outlet” means an outlet that directly connects to a tank or other structure that is at atmospheric pressure. Water flows through a gravity outlet by the natural head of water over the outlet.

“Hose bib” means a fresh-water outlet that is threaded to permit the attachment of a garden hose.

“Hydrostatic relief valve” means a relief valve installed in the bottom of the swimming pool and designed to operate automatically when the swimming pool is empty, relieving the groundwater pressure around the structure by allowing the groundwater into the swimming pool tank.

“Inlet” means a fitting or opening through which recirculation water enters the swimming pool.

“Inspection agency” means the department, or a city, county or district board of health that has executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I an agreement to inspect swimming pool/spa facilities and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“Leisure river” means a closed-path channel of near constant depth with a river-like flow of water. A leisure river may include water features and play devices. Leisure rivers are also called “lazy rivers” or “slow rivers.”

“Lifeguard.”

1. “Certified lifeguard” means an individual who holds current certification in one of the following courses and, where applicable, current additional certification in American Red Cross first aid and American Red Cross or American Heart Association infant, child and adult CPR; two-person CPR, or equivalent first-aid and CPR certification approved by the department:

- American Red Cross Lifeguard Training
- YMCA Lifeguarding
- Boy Scouts of America Lifeguard

2. “Licensed lifeguard” means an individual who holds a current license from the National Pool and Waterpark Lifeguard Training Program in one of the following programs:

- National Pool and Waterpark Pool Lifeguard
- National Pool and Waterpark Lifeguard Training
- National Pool and Waterpark Deep Water Lifeguard

NOTE: Lifeguard, CPR and first-aid training programs will sometimes be renamed or restructured by the sponsoring organization. American Red Cross lifeguard training now includes first aid and CPR; the lifeguard receives the lifeguard certificate and a CPR certificate. Separate CPR and first-aid training is available from the American Red Cross, the American Heart Association, and other providers. If there is a question whether a specific training course will meet the requirements of these rules, information about the course should be submitted to the department for evaluation.

“Main drain” means the outlet(s) at the deepest part of a swimming pool or spa.

“Manufacturer’s specifications” means written guidelines established by a manufacturer for the installation and operation of the manufacturer’s equipment.

“Multisection water recreation pool” means a swimming pool with three or more distinct use areas such as, but not limited to, a zero-depth play area, a water slide landing area, a lap swim area, and a diving area.

“Outlet” means a fitting or opening, including the main drain, through which water leaves the swimming pool or spa.

“Outlet system” means an arrangement of components associated with one or more connected fully submerged outlets including the cover/grate(s), the sump(s), the piping, and the pump(s) if one or more pumps are directly connected to the outlet(s).

“Perimeter overflow gutter” means a weir and trough around the perimeter of a swimming pool that is used to skim the surface of the water and return the water to the treatment system.

“Plunge pool” means a pool designed to serve as a landing area for a water slide.

“Recirculation system” means the pump(s), piping, inlets, outlets, filtration system, chemical feed systems and accessories provided to convey and treat the swimming pool or spa water to meet the water quality standards in these rules.

“Reconstruction” means the replacement or modification of a swimming pool or spa shell or deck, a swimming pool or spa recirculation system, a perimeter overflow gutter or skimmer, or a bathhouse associated with a public swimming pool or spa. “Reconstruction” does not include the replacement of equipment or piping previously approved by the department, provided that the type and size of the equipment are not revised, nor does it include normal maintenance or repair.

“Residential swimming pool” means any swimming pool that is used, or intended to be used, in connection with a single-family residence and that is available only to the family of the householder and the householder’s private guests. A residential swimming pool used for any commercial purpose, including, but not limited to, swimming lessons or exercise classes, shall comply with the requirements of 15.4(6)“n.” A residential swimming pool used for private swimming lessons for over 207 hours in a calendar month, or the number of hours prescribed by local ordinance applicable to such use of a residential swimming pool, whichever is greater, shall be considered a public swimming pool and shall be subject to all the requirements of this chapter. A residential swimming pool used for any other

commercial purposes for more than 60 hours in a calendar month shall be considered a public swimming pool and shall be subject to all the requirements of this chapter.

“Shallow water” means those areas of a swimming pool where the water is 5 ft deep or less.

“Shallow water guard.”

1. “Certified shallow water guard” means a person who has current certification in American Red Cross basic water rescue, current certification in American Red Cross first aid, and current certification in American Red Cross or American Heart Association infant, child and adult CPR, or equivalent training approved by the department.

2. “Licensed shallow water guard” means a person who holds a current license from the National Pool and Waterpark Lifeguard Training Program as a National Pool and Waterpark Shallow Water Waterpark Lifeguard.

NOTE: Water safety, CPR and first-aid training programs will sometimes be renamed or restructured by the sponsoring organization. If there is a question whether a specific training course will meet the requirements of these rules, information about the course should be submitted to the department for evaluation.

“Skimmer” means a manufactured device designed to be directly connected to the recirculation pump suction and used to skim the swimming pool over a self-adjusting weir.

“Spa” means a structure, chamber, or tank, such as a hot tub or whirlpool, that is designed for recreational or therapeutic use and is designed not to be drained, cleaned, and refilled after each individual use. A spa is designed to provide a means of agitation. A swimming pool with a bench equipped with agitation is not considered a spa provided that the bench length is no more than 10 percent of the swimming pool perimeter and that the water temperature is maintained at 90°F or less. Rules 641—15.51(135I) and 641—15.52(135I) define minimum standards for the operation and design of spas.

“Speed slide” means a water slide which is designed to enter users into a plunge pool or other deceleration arrangement at a speed of 30 ft per second or more.

“Spray pad” means a constructed area equipped with water sprays or other water play features where the water is intended to contact the users. A spray pad includes no standing water. A spray pad uses water that is recirculated independently or from an associated swimming pool. Spray pads are also called “wet decks,” “splash pads,” “interactive play attractions,” “water recreation attractions,” and other names.

A play area with sprays or other features that includes no standing water and that uses only potable water that is not circulated (the water drains to waste) is not included in this definition.

“Suction outlet” means an outlet that is directly connected to the inlet side of a circulation pump.

“Superchlorination” means the addition of a chlorine disinfectant compound to a swimming pool or spa to a concentration at least ten times the combined chlorine concentration before the addition. Treatment of swimming pool or spa water with nonchlorine chemicals to eliminate or suppress combined chlorine is not superchlorination.

“Swimming pool” means a structure, chamber, tank, or area constructed of man-made material through which water is circulated and that is designed and operated for recreation, training, or competition that includes full body contact with the water. This definition includes, but may not be limited to, swimming pools, wading pools, spray pads, leisure rivers, water slides, and wave pools. The swimming pool may be either publicly or privately owned. This definition includes, but is not limited to, swimming pools operated by cities, counties, public and private schools, hotels, motels, camps, apartments, condominiums, and health clubs and country clubs.

1. “Class A swimming pool” means a swimming pool with a water surface area of 1500 ft² or more, except for wading pools.

2. “Class B swimming pool” means a swimming pool with a water surface area of less than 1500 ft².

“Swimming pool slide” means any device used to enter a swimming pool by sliding down an inclined plane or through a tube. “Swimming pool slide” as used in this chapter is equipment generally similar to a playground slide. A swimming pool slide shall have a slide path of 20 ft or less in length and a water flow down the slide of 20 gpm or less. A slide exceeding either of these criteria shall be a water slide.

“*Temporary spa*” means a spa which is installed or situated in one location for a period of less than 30 days.

“*Total bromine*” means the concentration of hypobromous acid, hypobromite ion and nitrogen-bromine compounds in the swimming pool water as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department.

“*Tri-chlor*” means trichloro-s-triazinetriene. Tri-chlor is a form of chlorine that includes cyanuric acid in its formulation.

“*Unblockable*,” when applied to a cover/grate for a fully submerged outlet, means a size and shape that cannot be fully covered by an 18-inch by 23-inch mat with 4-inch-diameter rounded corners and the differential pressure generated by the flow through the uncovered open area is not enough to cause body entrapment. “Unblockable” is evaluated by the methods specified in the ASME standard.

“*Wading pool*” means a swimming pool that is no more than 24 inches deep at any point and that is primarily intended for use by young children for general recreation or training.

“*Water slide*” means a recreational ride which is a sloped trough-like or tubular structure using water as a lubricant and as a method of regulating rider velocity and which terminates in a plunge pool, swimming pool, or in a specially designed deceleration structure. “Water slide” includes appurtenant structures and devices, such as a plunge pool, pump reservoir, recirculation equipment, flume pumps, and access structures, when they are provided.

“*Wave pool*” means a swimming pool of special shape and design which is provided with wave-generating equipment.

“*Zero-depth pool*” means a swimming pool in which the pool floor intersects the water surface along at least one side of the pool. This definition does not include wading pools.

15.3(2) Abbreviations.

“*AFO*” means aquatic facility operator.

“*AGA*” means American Gas Association, 400 N. Capitol Street, NW, Washington, DC 20001.

“*ANSI*” means American National Standards Institute, 25 West 43rd Street, New York, NY 10036.

“*APSP*” means the Association of Pool & Spa Professionals (formerly National Spa and Pool Institute (NSPI)), 2111 Eisenhower Avenue, Alexandria, Virginia 22314.

“*ASME*” means American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

“*ASME standard*” means ASME/ANSI A112.19.8a-2008, “Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs.” The standard sets performance requirements and test methods for pool and spa fittings, covers and grates for physical strength, ultraviolet light resistance, and hair and body entrapment prevention. The standard can be purchased from ANSI by calling (212)642-4980 or at <http://webstore.ansi.org/>.

“*AWWA*” means American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

“*BTU*” means British thermal unit.

“*CPO®*” means certified swimming pool/spa operator.

“*CPR*” means cardiopulmonary resuscitation.

“*feet*” means feet of water ($\text{feet} \times 0.43 = \text{psi}$) when used in discussing pump requirements.

“*ft*” means foot or feet (distance).

“*ft²*” means square foot or square feet.

“*gal*” means gallon(s).

“*gpm*” means gal per minute.

“*in Hg*” means inches of mercury ($\text{in Hg} \times 0.49 = \text{psi}$).

“*in²*” means square inch(es).

“*LAF*” means licensed aquatic facility technician.

“*mg/L*” means milligram(s) per liter.

“*mV*” means millivolts.

“*NRPA*” means National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148.

“*NSF*” means NSF International (formerly National Sanitation Foundation), 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140.

“*NSPF*®” means National Swimming Pool Foundation, 4775 Granby Circle, Colorado Springs, CO 80919.

“*ORP*” means oxidation-reduction potential.

“*ppm*” means parts per million; mg/L and ppm are equivalent terms.

“*PPSO*” means professional pool and spa operator.

“*psi*” means pounds per square inch.

“*sec*” means second (time).

“*Standard 50*” means NSF/ANSI Standard 50, “Circulation System Components for Swimming Pools, Spas, or Hot Tubs.”

“*TDH*” means total dynamic head.

“*UL*” means Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062-2096.

[ARC 7839B, IAB 6/3/09, effective 7/8/09; ARC 2279C, IAB 12/9/15, effective 1/13/16]

SWIMMING POOLS

641—15.4(135I) Swimming pool operations. Swimming pools shall be operated in a safe, sanitary manner and shall meet the following operational standards.

15.4(1) Filtration and recirculation.

a. Filtration. A swimming pool, except a fill and drain wading pool, shall have a filtration system in good working condition which provides water clarity in compliance with the water quality standards of 15.4(2).

b. Recirculation. The recirculation system of a swimming pool shall meet the following requirements:

(1) During the operating season, pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the swimming pool water recirculation system shall be operated continuously except for backwashing or servicing.

(2) The recirculation system shall have an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system shall have a vacuum gauge located between the filter and the pump.

(3) The recirculation system shall have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool.

(4) Swimming pools shall have a means for skimming the pool water surface.

1. Each skimmer shall have an easily removable basket or screen upstream from any valve. Self-adjusting weirs shall be in place to provide skimming action.

2. Gutter or skimmer drainage shall be sufficient to minimize flooding and prevent backflow of skimmed water into the swimming pool.

c. Wastewater. Backwash water from a swimming pool shall be discharged through an air break or an air gap.

d. Water supply. The water supplied to a swimming pool shall be from a water supply meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a swimming pool shall be discharged to the pool system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, “Reduced-Pressure Principle Backflow-Prevention Assembly.”

(2) Each hose bib at a facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

e. Swimming pool water heaters.

(1) Electric water heaters shall bear the seal of UL.

(2) Gas-fired water heaters shall bear the seal of the AGA and shall be equipped with a pressure relief valve.

(3) Fuel-burning water heaters shall be vented to the outside in accordance with the Iowa state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

f. Fill and drain wading pools. Each fill and drain wading pool shall be drained at least once every 12 hours and left empty when the pool is not open for use.

15.4(2) Water quality and testing.

a. Disinfection.

(1) Swimming pool water shall have a free chlorine residual of at least 1.0 ppm and no greater than 8.0 ppm, or a total bromine residual of at least 2.0 ppm and no greater than 18 ppm when the swimming pool is open for use, except as given in Table 1.

(2) The swimming pool shall be closed if the free chlorine is measured to be less than 0.6 ppm or the total bromine is measured to be less than 1.0 ppm.

(3) The swimming pool shall be closed if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm, except as given in Table 1.

(4) If an ORP controller with a readout meeting the requirements of 15.4(2) “f”(4) is installed on the swimming pool system, the swimming pool water shall have an ORP of at least 700 mV, but no greater than 880 mV, except as given in Table 1. The swimming pool shall be closed if the ORP is less than 650 mV or greater than 880 mV.

(5) The swimming pool shall be closed if the cyanuric acid concentration in the swimming pool water exceeds 80 ppm. The swimming pool may be reopened when the cyanuric acid concentration is 40 ppm or less.

(6) No cyanuric acid shall be added to an indoor swimming pool after May 4, 2005, except through an existing chemical feed system designed to deliver di-chlor or tri-chlor. No cyanuric acid in any form shall be added to an indoor swimming pool after May 31, 2008.

Table 1

Preferred Operating Range			Acceptable Operating Range		
ORP (mV)	Free Cl (ppm)	Total Br (ppm)	ORP (mV)	Free Cl (ppm)	Total Br (ppm)
700-880	1.0-8.0	2.0-18.0	700-880	0.50-0.90	1.0-2.0
			650-700 [#]	1.0-8.0	2.0-18.0
			650-700 [†]	8.2-10.0	18.5-22.0

[#] If these conditions occur on any 5 consecutive days or on any 10 days within a 14-day period, the facility management shall evaluate water parameters including, but not limited to, cyanuric acid, pH, combined chlorine, and phosphates (ortho- and total); and other conditions at the swimming pool. The facility management shall modify parameters and conditions as practical to bring the ORP to a minimum of 700 mV. The evaluation shall be completed within 30 days after the low ORP condition is known to the facility management. A written report of the evaluation shall be kept with the pool records.

[†] If these conditions occur on any 3 consecutive days or on any 7 days within a 14-day period, the facility management shall notify the local inspection agency and shall cause the conditions at the swimming pool specified in the previous footnote and the function of the ORP equipment to be investigated by a professional pool service company. A written report detailing source water parameters, pool water parameters, pool design (including information about the installed mechanical and chemical equipment), other conditions affecting the disinfectant concentration and the ORP, and the actions taken to increase ORP relative to the disinfectant residual shall be submitted to the local inspection agency within 30 days after the low ORP condition is known to the facility management.

b. pH level. The pH of swimming pool water shall be 7.2 to 7.8. An inspection agency may require that a swimming pool be closed if the pH is less than 6.8 or greater than 8.2.

c. Water clarity. A swimming pool that is less than 8 ft deep shall be closed if the grate openings on the main drain are not clearly visible from the deck. A swimming pool that is 8 ft deep or deeper shall be closed if the main drain is not clearly visible from the deck.

d. Bacteria detection.

(1) If coliform bacteria are detected in a sample taken in accordance with 15.4(2) “e”(6), the swimming pool shall be superchlorinated and a check sample shall be taken when the disinfectant residual is within the requirements of paragraph “a” above. If coliform bacteria are detected in

the check sample, the swimming pool shall be closed. The swimming pool may reopen when no coliform bacteria are detected in a swimming pool water sample taken when the pool water meets the requirements of paragraphs "a," "b" and "c" above.

(2) The facility management shall notify the local inspection agency of the positive bacteriological result within one business day after the facility management has become aware of the result.

e. Test frequency. The results of the tests required below shall be recorded in the swimming pool records.

(1) The disinfectant residual in the swimming pool water shall be tested or the ORP of the swimming pool water shall be checked each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments or homeowners associations with 25 or fewer living units, testing must be performed at least once each day that the swimming pool is available for use.

If the swimming pool is equipped with an automatic controller with a readout or local printout of ORP meeting the requirements of 15.4(2) "f"(4), the operator may make visual readings of ORP in lieu of manual testing, but the swimming pool water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the swimming pool records which results are from the manual tests.

(2) The pH of the swimming pool water shall be tested each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments or homeowners associations with 25 or fewer living units, testing for pH must be performed at least once each day that the swimming pool is available for use.

If the swimming pool is equipped with an automatic controller with a readout or local printout of pH meeting the requirements of 15.4(2) "f"(5), the operator may make visual readings of pH in lieu of manual testing, but the swimming pool water shall be tested manually for pH at least twice per day. The operator shall specify in the swimming pool records which results are from the manual tests.

(3) The swimming pool water shall be tested for total alkalinity at least once in each week that the swimming pool is open for use. The swimming pool shall be tested for calcium hardness at least once in each month that the swimming pool is open for use.

(4) If a chlorine chemical is used for disinfection, the swimming pool water shall be tested for combined chlorine at least once in each week that the swimming pool is open for use.

(5) If cyanuric acid or a stabilized chlorine is used at a swimming pool, the swimming pool water shall be tested for cyanuric acid at least once in each week that the swimming pool is open for use.

(6) At least once in each month that a swimming pool is open for use, the facility management shall submit a sample of the swimming pool water to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water. The sample shall be analyzed for total coliform.

f. Test equipment.

(1) Each facility shall have functional water testing equipment for free chlorine and combined chlorine, or total bromine; pH; total alkalinity; calcium hardness; and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility).

(2) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(3) The test equipment shall provide for the measurement of swimming pool water pH from 7.0 to 8.0 with at least five increments in that range.

(4) A controller readout used in lieu of manual disinfectant residual testing shall be a numerical analog or digital display (indicator lights are not acceptable) with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(5) A controller readout used in lieu of manual pH testing shall be a numerical analog or digital display (indicator lights are not acceptable) with a pH range at least equal to the range required in 15.4(2) "f"(3) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a swimming pool is open for use.

15.4(3) Chemical feed equipment and cleaning.

a. Chemical feed equipment.

(1) Equipment for continuous feed of chlorine, a chlorine compound or a bromine compound to the swimming pool water shall be provided and shall be operational. The equipment shall be adjustable in at least five increments over its feed capacity. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

(2) Equipment for the continuous feed of a chemical for pH adjustment of the swimming pool water shall be provided and shall be operational for each Class A swimming pool and for each swimming pool constructed after July 1, 1998. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

b. Cleaning.

(1) The inspection agency may require that a swimming pool be drained and scrubbed with a disinfecting agent prior to further usage.

(2) A vacuum system shall be provided to remove dirt from the bottom of the swimming pool.

15.4(4) Safety.

a. Chemical safety.

(1) No disinfectant chemical, pH control chemical, algacide, shock treatment chemical, or any other chemical that is toxic or irritating to humans may be added to the swimming pool water from the deck of the swimming pool while the swimming pool is in use. When chemical additions are made from the deck, the swimming pool shall be closed from use for at least one-half hour. The operator shall test the swimming pool water as appropriate before allowing use of the swimming pool. The chemical addition and the test results shall be recorded in the swimming pool records.

(2) Swimming pool treatment chemicals shall be stored and handled in accordance with the manufacturer's recommendations.

(3) Material safety data sheets (MSDS) for the chemicals used at the pool shall be at the facility in a location known and readily accessible to the facility staff.

(4) Chemical storage containers shall be clearly labeled.

(5) A chemical hazard warning sign shall be placed at the entrance of a room where chemicals are used or stored or where bulk containers are located.

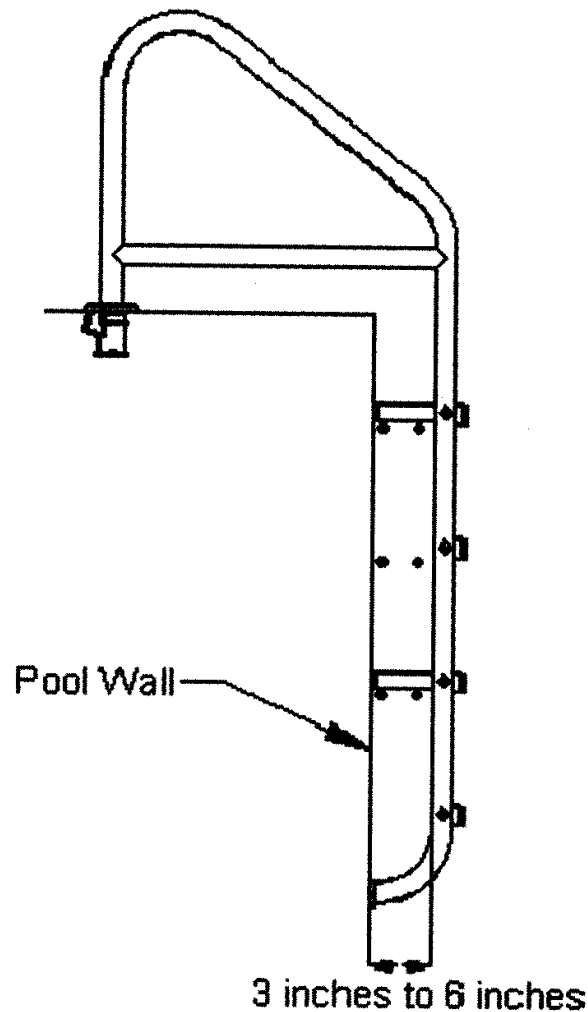
b. Stairs, ladders, recessed steps, and ramps.

(1) Ladders or recessed steps shall be provided in the deep portion of a swimming pool. Stairs, ladders, recessed steps, or ramps shall be provided in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft.

(2) Ladders, ladder rungs and ramps shall be securely anchored.

(3) The distance between the swimming pool wall to the vertical rail of a ladder shall be no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail shall be securely covered with a smooth nonmetallic cap. The lower end of each ladder rail shall be within 1 inch of the swimming pool wall.

Figure 1



- (4) Stairs, ladder rungs, ramps and recessed steps shall be slip-resistant.
- (5) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs shall be installed on each side. If a stairway centered on the shallow end wall of the swimming pool is within 30 ft of each side of the swimming pool, that end of the swimming pool shall be considered in compliance with this subparagraph.
- (6) Each set of recessed steps shall be equipped with a securely anchored grab rail on each side of the recessed steps.
- (7) Each set of stairs and each ramp shall be equipped with a securely anchored handrail(s).
- (8) When stairs are provided for entry into a swimming pool, a stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor shall be marked at the top front edge of each tread. The stripe shall be slip-resistant.

c. Diving areas.

- (1) No diving shall be permitted in areas where the water is 5 ft deep or less except for purposes of competition or training. The diving shall be supervised by a lifeguard, swim instructor or swim coach.
- (2) Starting blocks shall only be used for competition or training purposes under the supervision of a lifeguard, swim instructor, or swim coach. Starting blocks and starting block installation shall meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations). When the swimming pool is

open for general use, the starting blocks shall be secured from use by removal, covering, or signage and active supervision.

(3) Diving boards shall be permitted only if the diving area dimensions conform to the minimum requirements indicated in Figure 2, Table 2 and Table 3. Alternative diving well configurations may be used, subject to the approval of the department.

(4) There shall be a completely unobstructed clear distance of 13 ft above the diving board, measured from the center of the front end of the board. This area shall extend at least 8 ft behind, 8 ft to each side, and 16 ft ahead of the measuring point.

(5) Diving boards and platforms over 3 meters in height are prohibited except where approved by the department.

(6) Diving boards and platforms shall have a slip-resistant surface.

(7) Where the top of a diving board or platform is more than 18 inches above the deck, stairs or a ladder shall be provided for access to the diving board or platform.

(8) Handrails shall be provided at all steps and ladders leading to diving boards which are more than 32 inches above the deck.

(9) A platform or diving board that is 32 inches or more above the swimming pool deck shall have a guardrail on both sides. The guardrails shall be at least 36 inches high and shall extent to the edge of the deck. The guardrails shall have at least one horizontal mid-bar.

(10) Supports, platforms, and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated load.

NOTE: The information contained in Figure 2 and Tables 2 and 3 is for swimming pools constructed prior to March 14, 1990. Swimming pools constructed after March 14, 1990, shall meet the requirements contained in 15.5(13) "a."

When determining distances set out in Tables 2 and 3, measurements shall be taken from the top center of the front edge of the diving board. The reference water level shall be the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool shall be the top of the gutter weir.

Figure 2

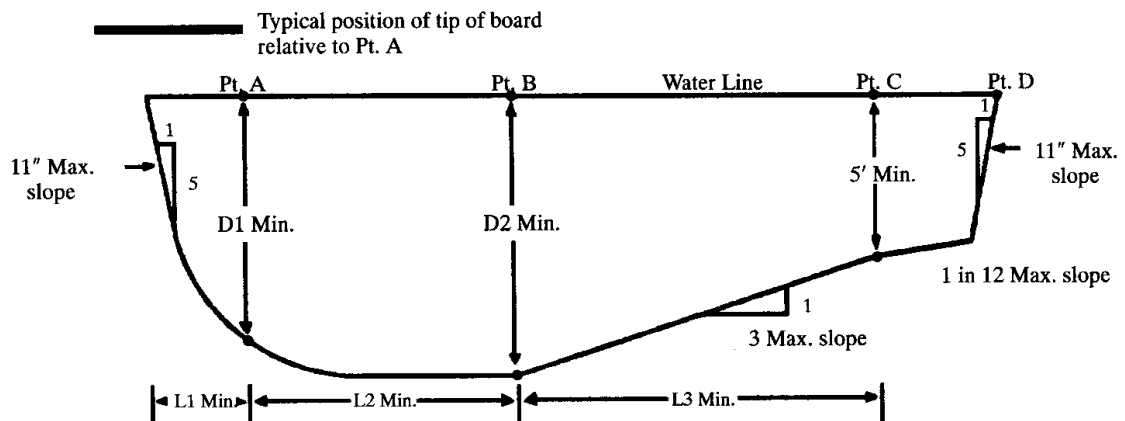


Table 2

Diving Board Height Above Water	Maximum Diving Board Length	Minimum Dimensions				
		D1	D2	L1	L2	L3
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft

Table 3

Diving Board Height Above Water	Minimum Distance		
	To Pool Side	To 1-Meter Diving Board	To 3-Meter Diving Board
Deck level to 1 meter	9 ft	8 ft	10 ft
Greater than 1 meter	11 ft	10 ft	10 ft

d. Lifeguards and shallow water guards.

(1) Except for wading pools and spray pads, lifeguards are required at municipal and school swimming pools of any size and other swimming pools having a water surface area of 1500 ft² or larger. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, manufactured home communities, or mobile home parks are exempt from lifeguard requirements.

(2) Shallow water guards may be used at plunge pools which are 5 ft deep or less and at wading pools.

(3) For open recreation swimming, there shall be at least one lifeguard guarding the pool at all times for up to 30 swimmers in the water; for over 30 swimmers in the water, there shall be at least two lifeguards on duty, one of whom shall be guarding the pool at all times for up to 125 swimmers in the water. An additional lifeguard shall be provided for each additional 125 swimmers in the water or fraction thereof.

NOTE: This is the minimum lifeguard coverage acceptable under these rules. It is the responsibility of the management of each facility to evaluate the facility configuration, the features of the facility, including water slides, spray pads, play features, etc., the patrons, and the type of use, and to determine the facility-specific requirements for supervision by lifeguards.

(4) For a structured swimming program, such as lap swim, competitive swimming, water exercise classes, swim lessons and physical education classes, a lifeguard is not required provided the program is supervised by an instructor, teacher, or coach who is a lifeguard or who has current certification from the American Red Cross in basic water rescue, first aid, and infant, child and adult CPR, or equivalent training approved by the department. An instructor, teacher or coach may be responsible for a maximum of 30 persons within a structured activity. If more than 30 persons are involved in a structured activity, a second qualified supervisor must be present.

(5) Water slide attendants. Each water slide shall have a minimum of two attendants, one stationed at the top of the slide and one at the bottom of the slide. If the plunge pool is shallow, the water slide attendants shall be either lifeguards or shallow water guards. If the plunge pool includes deep water, the water slide attendants shall be lifeguards. Where the water slide attendant stationed at the bottom of a slide which empties into a swimming pool is a shallow water guard, the attendant shall only be responsible for guarding the water slide landing area.

The department may approve alternate water slide management based on a review of the slide and swimming pool configuration. Alternate water slide management plans shall be in writing and shall be at the facility during the operating season.

If two or three water slides start at the same platform and the distance between the centerlines of any two start structures is 10 ft or less, one attendant may supervise the slides. If two or three water slides terminate within the same landing area, one attendant may supervise the landing area.

e. Lifeguard chairs. For outdoor swimming pools where lifeguards are required by rule, at least one elevated lifeguard chair or station shall be provided for a swimming pool with a water surface area of 2000 to 4000 ft² inclusive; at least two chairs shall be provided if the area is 4001 to 6000 ft²; and at least three chairs shall be provided if the area is 6001 ft² or more. Swimming pools are not required to have more than three lifeguard chairs or stations. This requirement does not apply to wave pools, leisure rivers, spray pads, or wading pools.

f. Emergency equipment and facilities.

(1) Except for wading pools, a minimum of one unit of lifesaving equipment shall be provided for each 1500 ft² of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than ten units of lifesaving equipment.

(2) A unit of lifesaving equipment consists of one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a ¼-inch diameter line with a length of at least one-half the width of the pool, but no more than 60 ft; or
2. A life pole, or a "shepherd's crook" of at least 8 ft in length, and having blunted ends; or
3. A rescue buoy made of lightweight, hard, buoyant plastic with molded handgrips along each side and provided with a 4- to 6-ft tow rope and shoulder strap; or
4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the end with the ring shall be a 6-ft-long towline with a shoulder strap; or
5. Any other piece of rescue equipment approved by the department.

NOTE: Rescue equipment identified in 15.4(4) "f"(2)"3" and 15.4(4) "f"(2)"4" above shall be used only at swimming pools where lifeguards are employed. If a facility employs lifeguards (whether required by rule or not), the lifeguards shall be provided with the minimum equipment required by their training including, but not necessarily limited to, rescue tubes and personal CPR masks.

(3) Lifesaving equipment shall be mounted in conspicuous places around the swimming pool deck during normal operations.

(4) A swimming pool facility shall have a first-aid kit which contains, at a minimum, the following:

1. Band-Aids.
2. Sterile 4" × 4" bandage compress.
3. Self-adhering gauze bandage.
4. Disposable gloves.
5. Chemical cold compress.

Where lifeguards are not provided, the first-aid kit shall be prominently mounted in the swimming pool enclosure, or a sign stating its location shall be posted near the swimming pool. The first-aid kit shall be accessible when the swimming pool is open.

(5) A standard spine board with straps and a head immobilizer shall be provided at each swimming pool where lifeguards are required by rule.

(6) Except for wading pools and spray pads, each swimming pool where lifeguards are not provided shall have a designated emergency telephone or equivalent emergency communication system that can be operated without coins. The communication system shall be available to users of swimming pools when the swimming pool is open. When the telephone is not within the confines of the swimming pool enclosure, the location of the emergency telephone shall be posted in at least one conspicuous place within the swimming pool enclosure. Instructions for emergency use of the telephone shall be posted near the telephone.

At each swimming pool where lifeguards are employed, a telephone shall be available to the swimming pool staff for emergency purposes.

g. Water level. Water level in swimming pools shall be maintained at the skimming level.

h. Fully submerged outlets. Each outlet, including the main drain(s), shall be designed to prevent user entrapment. A swimming pool shall be closed if the cover/grate of a fully submerged outlet is missing or broken.

(1) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate for a main drain system is at least the design filter flow rate, but may include play feature and water slide flow. The maximum system flow rate for other fully submerged outlets is the design flow rate of the pump(s) directly connected to the outlet system.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for at least five years from the certification date.

(2) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet does not have a cover/grate that complies with the ASME standard.

If a swimming pool has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the swimming pool is considered to have a single fully submerged outlet.

(3) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002, "Manufactured Safety Vacuum Release Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub, and Wading Pool Suction Systems," by a listing agency approved by the department; or another vacuum release system approved by the department.

1. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS shall be installed in accordance with the manufacturer's instructions.

3. An SVRS shall be tested for proper function at the frequency recommended by the manufacturer, but at least once in each month the swimming pool is operated. The date and result of each test shall be recorded.

(4) In lieu of compliance with subparagraphs (1), (2) and (3) above, a fully submerged outlet in a swimming pool may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval. The management of the swimming pool shall submit to the department information including, but not necessarily limited to:

1. The area and volume of the pool;
2. The functional areas of the pool and the depths in those areas;
3. Detailed information about the inlet system, including the location of the inlets, the depth of the inlets, and the type of inlet fitting;
4. Detailed information about the overflow system, gutter or skimmer, number of skimmers, and pipe sizes;
5. Pump information and flow rates for the outlet system;
6. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve shall be closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved

by the department. The outlet may be physically disconnected from the pump system at the option of the facility management.

i. Surface finish and float lines.

(1) The bottom and sides of a swimming pool shall be white or a light color. This does not prohibit painting or marking racing lines, stairs or turn targets with contrasting colors.

(2) The swimming pool walls and floor shall have a smooth surface to facilitate cleaning.

(3) The boundary between shallow and deep water (5 ft) shall be marked by a float line with floats spaced no more than 5 ft apart. The float line shall be installed on the shallow side of the boundary within 12 inches of the boundary. When the slope of the floor of a swimming pool exceeds 1 ft vertical to 12 ft horizontal at a depth of less than 5 ft, the float line shall be placed on the shallow side of the slope change within 12 inches of the slope change in lieu of a float line at the 5 ft depth.

(4) A wave pool shall be equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users shall not be permitted between the float line and the deep-end wall.

(5) The landing area for a swimming pool slide or a water slide that terminates in a swimming pool shall be delineated by a float line or as approved by the department.

A float line is not required when the landing area is in deep water provided the distance between the slide and any diving board(s) meets the requirements for diving board spacing. The distance between the side of the slide at the slide's terminus and the swimming pool wall shall be in accordance with the manufacturer's recommendations, but shall be at least 8 ft.

A float line is not required for a slide that is designed for toddlers and young children and that terminates in water that is 2 ft deep or less. The landing area shall be designated by a brightly colored pad securely fastened to the floor of the swimming pool or by painting the floor at the end of the slide.

j. Depth marking.

(1) Depth markers shall be painted or otherwise marked on the deck within 3 ft of the edge of the swimming pool. The depth of a wave pool shall also be marked on the side walls of the wave pool, above the maximum static water level, where the depth is 3 ft or more, and on the deep-end wall of the wave pool. Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required at a plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

(2) Depth markers shall be located at 1-ft depth intervals, but not more than 25 ft apart measured between the centers of the depth markers around the area of a swimming pool which has a water depth of 5 ft or less.

(3) Depth markers shall be located not more than 25 ft apart measured between the centers of the depth markers around the deep end of the swimming pool. The words "Deep Water" may be used in place of numerals.

(4) In lieu of subparagraph (2) above, the maximum depth of a wading pool may be posted at each entrance to a wading pool enclosure and at one conspicuous location inside the wading pool enclosure in letters or numbers at least 3 inches high.

(5) The depth of a leisure river shall be posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users are permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center. The depth markers at a leisure river constructed before May 4, 2005, are not required to be changed until the deck or channel structure is replaced or repaired.

(6) "No Diving" or equivalent wording or graphics shall be marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers shall be 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required for wading pools or at the zero-depth end of a wave pool or of a zero-depth swimming pool. "No Diving" or equivalent wording or graphics shall be marked on the deck of a leisure river in areas where users are permitted. The "No Diving" markers shall be within 3 ft of the

edge of the leisure river at intervals not to exceed 25 ft on center. The “No Diving” markers at a leisure river constructed before May 4, 2005, are not required to be changed until the deck or channel structure is replaced or repaired.

(7) Letters, numbers, and graphics marked on the deck shall be slip-resistant, of a color contrasting with the deck and at least 4 inches in height.

k. Deck safety.

(1) Decks shall be maintained slip-resistant, and free of litter, obstructions and tripping hazards.

(2) Glass objects, other than eyeglasses and safety glass doors and partitions, shall not be permitted on the deck.

(3) There shall be no underwater or overhead projections or obstructions which would endanger swimmer safety or interfere with proper swimming pool operation.

l. Fencing.

(1) Except for a fill and drain wading pool, a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure shall be constructed of durable materials.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the swimming pool, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes. When closed, gates and doors shall comply with the requirements of (2) above. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors shall be self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool shall have a barrier at least 36 inches high separating it from the swimming pool. A barrier installed after May 4, 2005, shall have no openings that would allow the passage of a 4-inch sphere and shall not be easily climbable by toddlers. The barrier shall have at least one 36-inch-wide gate or door. Gates and doors shall be lockable. Except where lifeguard supervision is provided, gates and doors shall be self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at a facility where lifeguards are provided whenever the pools are open. The alternate management plan shall be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool shall be enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the swimming pool area. No opening in the barrier shall permit the passage of a 4-inch sphere. The barrier shall not be easily climbable by toddlers. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates and doors shall be self-closing and self-latching.

(6) A wave pool shall have a continuous barrier along the full length of each side of the wave pool. The barrier shall be at least 42 inches high and be installed no more than 3 ft from the side of the wave pool. Wave pool users shall not be permitted in this area.

m. Electrical.

(1) Electrical outlets. Each electrical outlet in the deck, shower room, and pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker. GFCI receptacles and breakers shall be tested at least once in each month that the swimming pool is in operation. Testing dates and results shall be recorded in the pool records.

(2) Lighting.

1. Artificial lighting shall be provided at a swimming pool which is to be used at night or which does not have adequate natural lighting so that all portions of the swimming pool, including the bottom and main drain, may be clearly seen.

2. Underwater lights and fixtures shall be designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit shall be equipped with a GFCI. When an underwater light needs to be repaired, the electricity shall be shut off until repairs are completed.

3. For outdoor swimming pools, no electrical wiring, except for overhead illumination, shall extend over a swimming pool.

n. Chlorine gas and carbon dioxide.

(1) Chlorine gas feed equipment and full and empty chlorine cylinders shall be housed in a room or building used exclusively for that purpose during the pool operation season. Chlorine gas installations constructed prior to March 14, 1990, that are housed within chain-link fence or similar enclosure may be used provided that the chlorine cylinders are protected from direct sunlight and the applicable requirements below are met.

1. A chlorine gas room or building shall have an airtight exhaust system which takes its suction near the floor and discharges out of doors in a direction to minimize the exposure to swimming pool patrons. The system shall provide one air change every four minutes.

2. An air intake shall be provided near the ceiling.

3. The exhaust fan shall be operated from a switch in a nearby location outside the chlorine room or building. The switch shall be clearly labeled "Chlorine Exhaust Fan."

4. The discharge from the exhaust system shall be outside the pool enclosure.

5. Artificial lighting shall be provided in the chlorine room or building.

6. The door of a chlorine room or building shall be secured in an open position whenever the room is occupied.

7. A plastic bottle of commercial strength ammonia solution for leak detection shall be provided.

8. Rooms or buildings where chlorine is stored or used shall be placarded in accordance with 875—Chapter 140, Iowa Administrative Code.

(2) Chlorine and carbon dioxide (CO₂) cylinders.

1. Chlorine gas and CO₂ cylinders shall be individually anchored with safety chains or straps.

2. Storage space shall be provided so that chlorine cylinders are not subject to direct sunlight.

3. The chlorinator shall be designed to prevent the backflow of water or moisture into the chlorine gas cylinder.

4. An automatic shutoff shall be provided to shut off the gas chlorinator and the pH control chemical pump when the recirculation pump stops.

o. Water slides.

(1) Water slide support structures shall be free of obvious structural defects.

(2) The internal surface of a flume shall be smooth and continuous for its entire length.

(3) The flume shall have no sharp edges within reach of a user while the user is in the proper sliding position.

15.4(5) Showers, dressing rooms, and sanitary facilities. Swimming pool users shall have access to showers, dressing rooms, and sanitary facilities that are clean and free of debris. If a bathhouse is provided, the following shall be met:

a. Floors shall have a slip-resistant surface.

b. Floors shall provide adequate drainage to prevent standing water.

c. Olefin or other approved carpeting may be used in locker room or dressing room areas provided there is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other area where water can accumulate.

d. All lavatories, showers, and sanitary facilities shall be functional.

e. Soap shall be available at each lavatory and at each indoor shower fixture.

15.4(6) Management, notifications, and records.

a. Certified operator required. Each facility shall employ a certified operator. One certified operator may be responsible for a maximum of three facilities. Condominium associations, apartments and homeowners associations with 25 or fewer living units are exempt from this requirement.

b. Pool rules sign. A legible pool rules sign shall be posted conspicuously at a minimum of two locations within the swimming pool enclosure. The sign shall include the following stipulations:

- (1) No diving in the shallow end of the swimming pool and in other areas marked "No Diving."
- (2) No rough play in or around the swimming pool.
- (3) No running on the deck.

c. Other rules. Management may adopt and post such other rules as it deems necessary to provide for user safety and the proper operation of the facility.

d. "No Lifeguard" signs. Where lifeguards are not provided whenever the pool is open, a sign shall be posted at each entry to a swimming pool or a wading pool.

(1) The sign(s) at a swimming pool shall state that lifeguards are not on duty and children under the age of 12 must be accompanied by an adult.

(2) The sign(s) at a wading pool shall state that lifeguards are not on duty and children must be accompanied by an adult.

e. Water slide rules. Rules and restrictions for the use of a water slide shall be posted near the slide. The rules shall address the following as applicable:

- (1) Use limits.
- (2) Attire.
- (3) Riding restrictions.
- (4) Water depth at exit.
- (5) Special rules to accommodate unique aspects of the attraction.
- (6) Special warnings about the relative degree of difficulty.

f. Operational records. The operator of a swimming pool shall have the swimming pool operational records for the previous 12 months at the facility and shall make these records available when requested by a swimming pool inspector. These records shall contain a day-by-day account of swimming pool operation, including:

(1) ORP and pH readings, results of pH, free chlorine or total bromine residual, cyanuric acid, total alkalinity, combined chlorine, and calcium hardness tests, and any other chemical test results.

(2) Results of microbiological analyses.

(3) Reports of complaints, accidents, injuries, and illness.

(4) Dates and quantities of chemical additions, including resupply of chemical feed systems.

(5) Dates when filters were backwashed or cleaned or when a filter cartridge was changed.

(6) Monthly ground fault circuit interrupter test results.

(7) Dates of review of material safety data sheets.

(8) If applicable, dates and results of tests of each SVRS installed at a facility.

g. Submission of records. An inspection agency may require a facility operator to submit to the inspection agency on a monthly basis a copy of the records of the ORP and pH readings, chemical test results and microbiological analyses. The inspection agency shall notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility management shall submit the required reports to the inspection agency within 10 days after the end of each month of operation.

h. Certificates. Copies of certified operator certificates and copies of lifeguard, first-aid, basic water rescue, and CPR certificates for the facility staff shall be kept at the facility.

i. Operations manual. A permanent manual for the operation of the swimming pool shall be kept at the facility. The manual shall include instructions for routine operations at the swimming pool including, but not necessarily limited to:

- (1) Water testing procedures, including the required frequency of testing.
- (2) Maintaining the chemical supply for the chemical feed systems.
- (3) Filter backwash or cleaning.

- (4) Vacuuming and cleaning the swimming pool.
- (5) Superchlorination.
- (6) Controller sensor maintenance, where applicable.

j. Schematic drawing. A schematic drawing of the pool recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the swimming pool piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

k. Material safety data sheets. Copies of material safety data sheets (MSDS) of the chemicals used at the swimming pool shall be kept at the facility in a location known and readily accessible to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the MSDS at least annually. The facility management shall retain records of the MSDS reviews at the facility and shall make the records available upon request by a swimming pool inspector.

l. Emergency plan. The facility management shall develop a written emergency plan. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded in the pool records. The written emergency plan shall be kept at the facility and shall be available to a swimming pool inspector upon request.

m. Lifeguard staffing plan. The lifeguard/program staffing plan for the facility shall be available to the swimming pool inspector at the facility. The plan shall include staffing assignments for all programs conducted at the pool.

n. Residential swimming pools used for commercial purposes. A residential swimming pool that is used for commercial purposes shall be subject to the following requirements:

(1) The owner of a residential swimming pool that is used for commercial purposes shall register the swimming pool with the department in accordance with 641—15.9(135I), except that no registration fee is required.

(2) The recirculation system of the swimming pool shall be operating whenever the swimming pool is used for commercial purposes.

(3) The owner or the owner's representative shall test the swimming pool water for the free chlorine or the total bromine residual prior to and after each commercial use of the swimming pool. The owner or the owner's representative shall test the swimming pool water for pH and cyanuric acid (if applicable) at least once in each day that the swimming pool is used for commercial purposes. The test results shall be recorded. The records shall be made available to a swimming pool inspector upon request.

(4) The owner or the owner's representative shall test the swimming pool water for total alkalinity and calcium hardness at least once in each month that the swimming pool is used for commercial purposes. The test results shall be recorded. The records shall be made available to a swimming pool inspector upon request.

(5) During commercial use of a residential swimming pool, the chlorine or bromine residual shall meet the requirements of 15.4(2) "a." The pH shall meet the requirements of 15.4(2) "b." If an alternative disinfectant is used, the residual shall be maintained as recommended by the manufacturer of the product. The operational range specified by the manufacturer for an alternative disinfectant shall be written in the pool records.

(6) The swimming pool shall be inspected at least annually by the local inspection agency. The inspection shall be limited to a review of the records and a survey of the swimming pool for sanitation and obvious safety hazards.

15.4(7) Reports. Swimming pool and spa operators shall report to the local inspection agency, within one business day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury which renders a person unconscious or requires immediate medical attention.

[ARC 7839B, IAB 6/3/09, effective 7/8/09]

641—15.5(135I) Construction and reconstruction. A swimming pool constructed or reconstructed after May 4, 2005, shall comply with the following standards. Nothing in these rules is intended to exempt swimming pools and associated structures from any applicable federal, state or local laws, rules, or ordinances. Applicable requirements may include, but are not limited to, the handicapped access and energy requirements of the state building code, the fire and life safety requirements of the state fire marshal, the rules of the department of workforce development, and the rules of the department of natural resources.

15.5(1) Construction permit.

a. Permit required. No swimming pool shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless an extension is granted in writing by the department.

b. Permit application. The owner of a proposed or existing facility or a designated representative of the owner shall apply for a construction permit on forms provided by the department. The application shall be submitted to the department at least 15 days prior to the start of construction of a new swimming pool or the reconstruction of an existing swimming pool.

c. Plan submission and fee. Three sets of plans and specifications shall be submitted with the application. A nonrefundable plan review fee for each swimming pool, leisure river, water slide, wave pool, wading pool, spray pad, zero-depth swimming pool, and multisection water recreation pool shall be remitted with the application as required in 15.12(3).

d. Notification of completion. The owner of a newly constructed or reconstructed swimming pool, or the owner's designated representative, shall notify the department in writing at least 15 business days prior to opening the swimming pool.

15.5(2) Plans and specifications.

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa. This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both.

If the requirement for engineering plans is waived, the owner of the facility assumes full responsibility for ensuring that the reconstruction complies with these rules and with any other applicable federal, state and local laws, rules and ordinances.

b. Content of plans. Plans and specifications submitted shall contain sufficient information to demonstrate to the department that the proposed swimming pool will meet the requirements of this chapter. The plans and specifications shall include, but may not be limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a swimming pool contractor applies for a construction permit, the name, address and telephone number of the swimming pool contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the pool in relation to buildings, streets, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the swimming pool and its appurtenances, including a plan view and cross sections at a scale of 3/32 inch per ft or larger. The location of inlets, overflow system components, main drains, the deck and deck drainage, the location and size of pool piping, the swimming pool ladders, stairs and deck equipment, including diving stands and boards, and fencing shall be shown.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, heaters, and surge tanks; and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply; drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the swimming pool, for the swimming pool equipment and for the swimming pool appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval shall be made without prior approval of the department.

15.5(3) General design.

a. Construction of fill and drain wading pools is prohibited.

b. Materials. Swimming pools shall be constructed of materials which are inert, stable, nontoxic, watertight, and durable.

c. Structural loading.

(1) Swimming pools shall be designed and constructed to withstand the anticipated structural loading. If maintenance of the structural integrity of the swimming pool requires specific operations or limits of operation, these shall be specified in the permanent operations manual required in 15.5(3) "*f.*"

(2) Except for aboveground swimming pools, a hydrostatic relief valve or a suitable underdrain system shall be provided.

d. Water supply. The water supplied to a swimming pool shall be from a water supply meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a swimming pool shall be discharged to the pool system through an air gap, or a reduced-pressure principle backflow device complying with AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

e. No part of a swimming pool recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

f. Operations manual. The owner shall require that a permanent manual for the operation of the facility be provided. The manual shall include, but may not be limited to:

(1) Instructions for routine operations at the swimming pool including, but not necessarily limited to:

1. Filter backwash or cleaning.

2. Maintaining the chemical supply for the chemical feed systems.

3. Vacuuming and cleaning the swimming pool.

4. Swimming pool water testing procedures, including the frequency of testing.

5. Superchlorination.

6. Controller sensor maintenance and calibration, including the recommended frequency of maintenance.

(2) For each centrifugal pump, a pump performance curve plotted on an 8½" × 11" or larger sheet.

(3) For each chemical feeder, the maximum rated output listed in weight per time or volume per time units.

(4) Basic operating and maintenance instructions for swimming pool equipment that requires cleaning, adjustment, lubrication, or parts replacement, with recommended maintenance frequencies or the parameters that would indicate a need for maintenance.

g. A schematic drawing of the pool recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the swimming pool piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

h. A permanent file containing the operations and maintenance manuals for the equipment installed at the swimming pool shall be established. The file shall include a source for parts or maintenance for the equipment at the swimming pool. The file may be located in a location other than the facility, but it shall be readily available to the facility management and maintenance staff.

15.5(4) Decks.

a. *Deck width.* A swimming pool shall be surrounded by a deck. The deck shall be at least 6 ft wide for a Class A swimming pool, and 4 ft wide for a Class B swimming pool, and shall extend at least 4 ft beyond the diving stands, lifeguard chairs, swimming pool slides, or any other deck equipment.

b. *Materials.* Decks shall be constructed of stable, nontoxic, durable, and impervious materials and shall be provided with a slip-resistant surface.

c. *Deck coverings.* Porous, nonfibrous deck coverings may be used, subject to department approval, provided that:

(1) The covering allows drainage so that the covering and the deck underneath it do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

d. *Deck drainage.* The deck of a swimming pool shall not drain to the pool or to the pool recirculation system except as provided in 15.5(15) "c" and 15.5(16) "b." For deck-level swimming pools ("rim flow" or "rollout" gutter), a maximum of 5 ft of deck may slope to the gutter.

e. *Deck slope.* The deck slope shall be at least 1/8 inch/ft and no more than 1/2 inch/ft to drain. The deck shall be designed and constructed so that there is no standing water on the deck during normal operation of the facility.

f. *Surface runoff.* For outdoor swimming pools, the drainage for areas outside the facility and for nondeck areas within the facility shall be designed and constructed to keep the drainage water off the deck and out of the swimming pool.

g. *Carpeting.* The installation of a floor covering of synthetic material may be used only in separate sunbathing, patio, or refreshment areas, except as permitted by 15.5(4) "c."

h. *Hose bibs.* At least one hose bib shall be provided for flushing the deck.

i. *Rinse showers.* If users are permitted free access between the deck and an adjacent sand play area without having to pass through a bathhouse, a rinse shower area shall be installed between the deck and the sand play area. Fences, barriers and other structures shall be installed so that users must pass through the rinse shower area when going from the sand play area to the deck.

(1) Tempered water shall be provided for the rinse shower(s).

(2) The rinse shower area shall have sufficient drainage so that there is no standing water.

(3) Foot surfaces in the rinse shower area shall be impervious and slip-resistant.

15.5(5) Recirculation.

a. *Combined recirculation.* Except for wading pools, two or more swimming pools may share the same recirculation system. A wading pool shall have a recirculation system separate from any other wading pool or swimming pool.

(1) The recirculation flow rate for each swimming pool shall be calculated in accordance with 15.5(5) "b." The recirculation flow rate for the system shall be at least the arithmetic sum of the recirculation flow rates of the swimming pools.

(2) The flow to each pool shall be adjustable. A flow meter shall be provided for each pool.

b. *Recirculation flow rate.* The recirculation flow rate shall provide for the treatment of one pool volume within:

(1) Four hours for a swimming pool with a volume of 30,000 gal or less.

(2) Six hours for a swimming pool with a volume of more than 30,000 gal.

(3) Two hours for a wave pool.

(4) Four hours for a zero-depth pool.

(5) One hour for a wading pool.

(6) One hour for a water slide plunge pool.

(7) Four hours for a leisure river.

(8) Thirty minutes for a spray pad with its own filter system.

(9) For swimming pools with skimmers, the recirculation flow rate shall be at least 30 gpm per skimmer or the recirculation flow rate defined above, whichever is greater.

The recirculation flow rate for pools not specified in 15.5(5) “b”(1) to (9) shall be determined by the department.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) shall supply the recirculation flow rate required by 15.5(5) “b” at a TDH of at least that given in “1,” “2,” or “3” below, unless a lower TDH is shown by the designer to be appropriate. A valve for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or
2. 60 feet for pressure sand filters; or
3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) For sand filter systems, the pump and filter system shall be designed so that each filter can be backwashed at a rate of at least 15 gpm/ft² of filter area.

(3) If a pump is located at an elevation higher than the pool water surface, it shall be self-priming or the piping shall be arranged to prevent the loss of pump prime when the pump is stopped.

(4) Where a vacuum filter is used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 in Hg.

(5) A compound vacuum-pressure gauge shall be installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump discharge line as close to the pump as practical. Gauges shall be of such a size and located so that they may be easily read by the facility staff.

(6) On pressure filter systems, a hair and lint strainer shall be installed on the suction side of each recirculation pump. The hair and lint strainer basket shall be readily accessible for cleaning, changing, or inspection. A spare strainer basket shall be provided, except where the strainer basket has a volume of 15 gallons or more. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Swimming pool water heaters.

(1) A heating coil, pipe or steam hose shall not be installed in a swimming pool.

(2) Gas-fired pool water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. The data plate of the heater shall bear the AGA mark.

(3) Electric pool water heaters shall comply with the requirements of UL 1261 and shall bear the UL mark.

(4) A swimming pool water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) shall have a water heating vessel constructed in accordance with ASME Boiler Code, Section 8. The data plate of the heater shall bear the ASME mark.

(5) A thermometer shall be installed in the piping to measure the temperature of the water returning to the pool. The thermometer shall be located so that it may be easily read by the facility staff.

(6) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(7) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(8) Each fuel-burning water heater shall be equipped with a pressure relief valve sized for the energy capacity of the water heater.

e. Flow meters.

(1) Each swimming pool recirculation system shall be provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) In a multiple pool system, a flow meter shall be provided for each pool.

(3) A flow meter shall be accurate within 5 percent of the actual flow rate between ± 20 percent of the recirculation flow rate specified in 15.5(5) “b” or the nominal recirculation flow rate specified by the designer.

(4) A flow meter shall be installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.5(5)“e”(3). The flow meter shall be installed so that it may be easily read by facility staff, or a remote readout of the flow rate shall be installed where it may be easily read by the facility staff. The designer may be required to provide documentation that the installation meets the requirements of subparagraph (3).

f. Vacuum cleaning system.

(1) A swimming pool vacuum cleaning system capable of reaching all parts of the pool bottom shall be provided.

(2) A vacuum system may be provided which utilizes the attachment of a vacuum hose to the suction piping through a skimmer.

(3) Automatic vacuum systems may be used provided they are capable of removing debris from all parts of the swimming pool bottom.

15.5(6) Filtration. A filter shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

a. Pressure gauges. Each pressure filter shall have a pressure gauge on the inlet side. Gauges shall be of such a size and located so that they may be read easily by the facility staff. A differential pressure gauge that gives the difference between the inlet and outlet pressure of the filter may be used in place of a pressure gauge.

b. Air relief valve. An air relief valve shall be provided for each pressure filter.

c. Backwash water visible. Backwash water from a pressure filter shall discharge through an observable free fall, or a sight glass shall be installed in the backwash discharge line.

d. Indirect discharge required. Backwash water shall be discharged indirectly to a sanitary sewer or another point of discharge approved by the department of natural resources.

e. Rapid sand filter.

(1) The filtration rate shall not exceed 3 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

f. High-rate sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) If more than one filter tank is served by a pump, the designer shall demonstrate that the backwash flow rate to each filter tank meets the requirements of subparagraph (2) above, or an isolation valve shall be installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) An equalization screen shall be provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system shall have an automatic air-purging cycle.

h. Sand filter media shall comply with the filter manufacturer's specifications.

i. Diatomaceous earth filter.

(1) The filtration rate shall not exceed 1.5 gpm/ft² of effective filter area except that a maximum filtration rate of 2.0 gpm/ft² may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems shall have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth shall be discharged to a sanitary sewer or other point of discharge approved by the department of natural resources. The discharge may be subject to the requirements of the local wastewater utility.

j. Cartridge filter.

(1) The filtration rate shall not exceed 0.38 gpm/ft² of filter area.

(2) A duplicate set of cartridges shall be provided.

k. Other filter systems may be used if approved by the department.

15.5(7) Piping.

a. Piping standards. Swimming pool piping shall conform to applicable nationally recognized standards and shall be specified for use within the limitations of the manufacturer's specifications. Swimming pool piping shall comply with the applicable requirements of NSF/ANSI Standard 61, "Drinking Water System Components—Health Effects." Plastic swimming pool pipe shall comply with the requirements of NSF/ANSI Standard 14, "Plastic Piping Components and Related Materials," for potable water pipe.

b. Pipe sizing. Swimming pool recirculation piping shall be sized so water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow. Gravity piping shall be sized in accordance with recognized engineering principles.

c. Overflow system piping. The piping for an overflow perimeter gutter system shall be designed to convey at least 125 percent of the recirculation flow rate. The piping for a skimmer system shall be designed to convey at least 100 percent of the recirculation flow rate.

d. Main drain piping. If the main drains are connected to the recirculation system, the main drains and main drain piping shall be designed to convey at least 100 percent of the recirculation flow rate.

e. Play feature circulation. Where there are attractions, such as water slides, fountains and play features, that circulate water to the swimming pool and through the main drain and overflow systems, the main drain and overflow systems and the associated piping shall be designed to accommodate the combined flow of the recirculation system and the attractions within the requirements of paragraph "b" above and the applicable requirements of 15.5(9) and 15.5(10).

15.5(8) Inlets.

a. Inlets required. Wall inlets or floor inlets, or both, shall be provided for a swimming pool. The inlets shall be adequate in design, number, location, and spacing to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the swimming pool. The designer may be required to provide documentation of adequate distribution. The department may require dye testing of a pool.

b. Wall inlet spacing. Where wall inlets are used, they shall be no more than 20 ft apart around the perimeter of the area with an inlet within 5 ft of each corner of the swimming pool.

(1) There shall be at least one inlet at each stairway or ramp leading into a swimming pool.

(2) Except for wading pools, wall inlets shall be located at least 6 inches below the design water surface.

(3) Wall inlets in pools with skimmers shall be directional flow-type inlets.

(4) Each inlet shall have a directional flow inlet fitting with an opening of 1-inch diameter or less, or a fixed fitting with openings ½ inch wide or less.

c. Floor inlets. Floor inlets shall be provided for the areas of a zero-depth swimming pool or wave pool where the water is less than 2 ft deep and may be used throughout a swimming pool in lieu of or in combination with wall inlets. Floor inlets shall be no more than 20 ft apart in the area where they are used. There shall be floor inlets within 15 ft of each wall of the swimming pool in the area where they are used. Floor inlets shall be flush with the pool floor.

15.5(9) Overflow system.

a. Skimmers. Recessed automatic surface skimmers shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 except that an equalizer is not required for a skimmer installed in a swimming pool equipped with an automatic water level maintenance device.

(1) Skimmers may be used for swimming pools which are no more than 30 ft wide.

(2) A swimming pool shall have at least one skimmer for each 500 ft² of surface area or fraction thereof.

(3) Each skimmer shall be designed for a flow-through rate of at least 30 gpm or 3.8 gpm per lineal inch of weir, whichever is greater. The combined flow capacity of the skimmers in a swimming pool shall not be less than the total recirculation rate.

(4) Each skimmer shall have a weir that adjusts automatically to variations in water level of at least 4 inches.

(5) Each skimmer shall be equipped with a device to control flow through the skimmer.

(6) If a swimming pool is not equipped with an automatic water level maintenance device, each skimmer that is a suction outlet shall have an operational equalizer. The equalizer opening in the swimming pool shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of the ASME standard.

(7) A skimmer pool shall have an approved handhold around the perimeter of the pool. The handhold shall be 9 inches or less above the minimum skimmer operation level.

b. Perimeter overflow gutters.

(1) A perimeter overflow gutter system is required for a swimming pool greater than 30 ft in width, except for a wave pool or a wading pool.

(2) The overflow weir shall extend completely around the swimming pool, except at stairs, ramps, or water slide flumes.

(3) The gutter shall be designed to provide a handhold and to prevent entrapment.

(4) Drop boxes, converters, return piping, or flumes used to convey water from the gutter shall be designed to convey 125 percent of the recirculation flow rate. The flow capacity of the gutter and the associated plumbing shall be sufficient to prevent backflow of skimmed water into the swimming pool.

(5) Gutter overflow systems shall be designed with an effective surge capacity within the gutter system and surge tank of not less than 1 gal/ft² of swimming pool surface area. In-pool surge may be permitted for prefabricated gutter systems, subject to the approval of the department.

c. Alternative overflow systems. Overflow systems not meeting all of the requirements in 15.5(9) "a" or 15.5(9) "b" may be used if the designer can provide documentation that the alternative overflow system will skim the pool water surface at least as effectively as a skimmer system.

15.5(10) Main drain system.

a. Main drains. Each swimming pool shall have a convenient means of draining the water from the pool for winterization and service.

b. Main drains for recirculation. If the main drain system is connected to the recirculation system, there shall be two or more main drains or a single main drain that is unblockable.

(1) Two main drains shall be at least 3 ft apart on center. If three or more main drains are installed, the distance between the drains farthest apart shall be at least 3 ft on center.

(2) Each main drain and its associated piping in a swimming pool shall be designed for the same flow rate. Multiple drains shall be plumbed in parallel, and the piping system shall be designed to equalize flow among the main drains.

(3) If one or two main drains are installed, each main drain cover/grate, sump and the associated piping shall be designed for at least 100 percent of the recirculation flow rate specified by 15.5(5) "b." If three or more main drains are installed, the combined flow rating of the cover/grates, the sumps and the associated piping shall be at least 200 percent of the recirculation flow rate. If water for water slides, fountains and play features is circulated through the main drain and overflow systems, the main drains shall be designed for the combined feature and recirculation flow.

(4) Manufactured main drain sumps shall be listed by a listing agency acceptable to the department for compliance with the ASME standard. Field fabricated sumps shall be designed in accordance with the ASME standard and shall be certified by an engineer licensed in Iowa.

(5) There shall be a control valve to adjust the flow between the main drain and the overflow system.

(6) Main drain covers. Each main drain shall be covered with a cover/grate that complies with the ASME standard.

1. The flow rating for each cover/grate shall comply with 15.5(10) "b"(3).

2. The mark of a listing agency acceptable to the department shall be permanently marked on the top surface of each manufactured cover/grate.

3. Field fabricated cover/grates shall be certified for compliance to the ASME standard by a professional engineer licensed in Iowa. A certificate of compliance shall be provided to the swimming pool owner and to the department.

4. The main drain cover/grate shall be designed to be securely fastened to the pool so that the cover/grate is not removable without tools.

c. Feature outlets. Where fully submerged outlets for play or decorative features or water slides are in the swimming pool, the outlets shall be designed in accordance with 15.5(10)“b.”

15.5(11) Disinfection.

a. Each swimming pool recirculation system approved for construction after May 4, 2005, shall be equipped with an automatic controller for maintenance of the disinfectant level in the swimming pool water. The control output of the controller to the disinfectant feed system shall be based on the continuous measurement of the ORP of the water in the swimming pool recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor shall be installed for an indoor swimming pool after May 4, 2005.

c. Disinfection system capacity. A continuous feed disinfectant system shall be provided. The disinfectant feed system shall have the capacity to deliver at least 10 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)“b” for an outdoor swimming pool and 4 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)“b” for an indoor swimming pool.

d. Feeder listing. A disinfectant feeder (except chlorine gas feed equipment) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50.

e. Chemical feed stop. The disinfectant system shall be installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

f. Gas chlorinators. Gas chlorinator facilities shall comply with applicable federal, state and local laws, rules and ordinances and the requirements below.

(1) The chlorine supply and gas feeding equipment shall be housed in a separate room or building.

1. No entrance or openable window to the chlorine room shall be to the inside of a building used other than for the storage of chlorine.

2. The chlorine room shall be provided with an exhaust system which takes its suction not more than 8 inches from the floor and discharges out of doors in a direction to minimize the exposure of swimming pool patrons to chlorine gas. The exhaust system shall be capable of producing 15 air changes per hour in the chlorine room.

3. An automatic chlorine leak detector and alarm system shall be provided in the chlorine room. The alarm system shall provide visual and audible alarm signals outside the chlorine room.

4. An air intake shall be provided near the ceiling of the chlorine room. The air intake and the exhaust system outlet shall be at least 4 ft apart.

5. The room shall have a window at least 12 inches square. The window glass shall be shatterproof.

6. The door of the chlorine enclosure shall open outward. The inside of the door shall be provided with panic hardware.

7. The chlorine room shall have adequate lighting.

8. Electrical switches for the exhaust system and for the lighting shall be outside the chlorine room and adjacent to the door, or in an adjoining room.

9. An anchoring system shall be provided so that full and empty chlorine cylinders can be individually secured.

10. Scales shall be provided for weighing the cylinders that are in use.

(2) A chlorine enclosure that is 30 inches deep or less and 72 inches wide or less and that is installed out of doors shall comply with the above requirements except:

1. An automatic chlorine leak detector is not required.

2. The enclosure shall have a window of at least 48 in².

3. The light and exhaust fan may be activated by opening the door rather than by a separate switch.

(3) The chlorinator shall be designed to prevent the backflow of water into the chlorine cylinder.

g. Solution feed. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container shall have a capacity of at least one day's supply at the rate specified in 15.5(11)“c,” except that when the system is designed to feed directly from a 55-gal shipping container, a larger solution container is not required.

NOTE: Secondary containment must be provided when a tank larger than 55 gallons is installed for the storage of sodium hypochlorite.

h. Erosion disinfectant feeders. The storage capacity of an erosion feeder shall be at least one day's supply of disinfectant at the rate specified in 15.5(11) "c."

i. Test equipment. Test equipment complying with the following requirements shall be provided.

(1) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm over the full range.

(2) The test equipment shall provide for the measurement of swimming pool water pH from 7.0 to 8.0 with at least five increments in that range.

(3) The test equipment shall provide for the measurement of total alkalinity and calcium hardness with increments of 10 ppm or less.

(4) The test equipment shall provide for the measurement of cyanuric acid from 30 to 100 ppm. This requirement may be waived for a facility that does not use cyanuric acid or a stabilized chlorine disinfectant.

15.5(12) pH control.

a. pH controller required. Each swimming pool recirculation system approved for construction after May 4, 2005, shall be equipped with a controller that senses the pH of the swimming pool water, and that automatically controls the operation of a metering pump for the addition of a pH control chemical or the operation of a carbon dioxide (CO₂) gas feed system.

b. pH chemical feed required. Each swimming pool shall have a metering pump for the addition of a pH control chemical to the pool recirculation system, or a carbon dioxide (CO₂) gas feed system.

c. Metering pump listing. A metering pump shall be listed by NSF or by another listing agency approved by the department as meeting the requirements of Standard 50.

d. CO₂ cylinder anchors. Where carbon dioxide (CO₂) is used as a method of pH control, an anchoring system shall be provided to individually secure full and empty CO₂ cylinders.

e. Chemical feed stop. The pH control system shall be installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

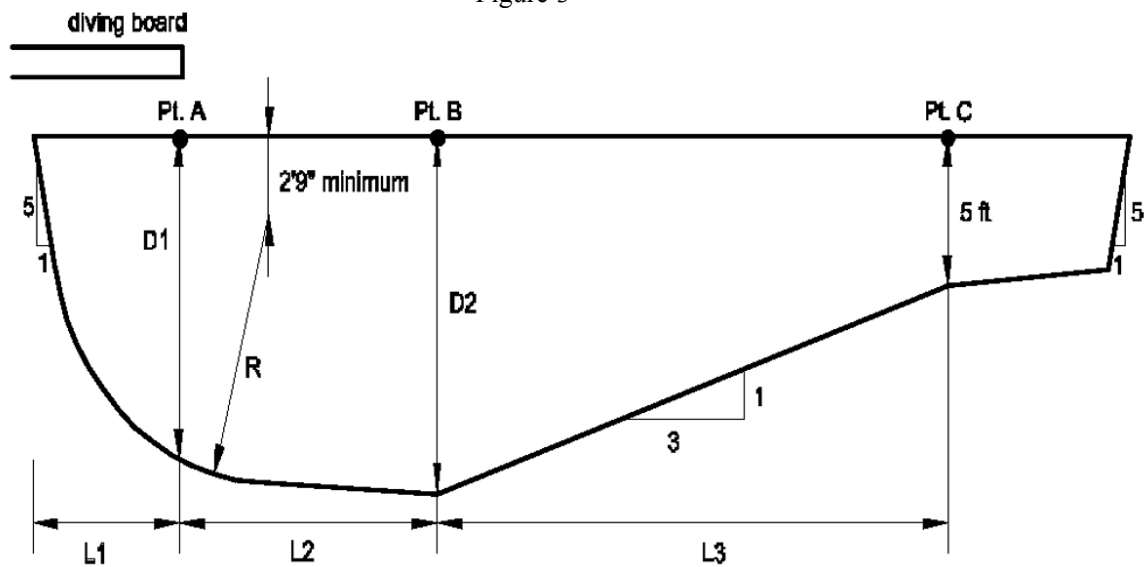
15.5(13) Safety.

a. Diving areas.

(1) Diving boards are permitted only if the diving area dimensions conform to the minimum requirements shown in Figure 3, Tables 4 and 5. Alternative diving well configurations may be used, subject to the approval of the department, but the boundaries of the diving well shall be outside the boundaries prescribed in these rules. The distances specified in Tables 4 and 5 shall be measured from the top center of the leading edge of the diving board. The reference water level shall be the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool shall be the top of the gutter weir.

(2) Where diving boards are specified that have been advertised or promoted to be "competition" diving boards, the diving area shall comply with the standards of the National Collegiate Athletic Association (NCAA) or the National Federation of State High School Associations (NFSHSA).

Figure 3



R minimum = Pool depth minus Vertical wall depth from the water line minus 3 inches.

Table 4

		Minimum Dimensions					Minimum Width of Pool		
Diving Board Height Above Water	Maximum Board Length	D1	D2	L1	L2	L3	Pt A	Pt B	Pt C
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft	16 ft	18 ft	18 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft	18 ft	20 ft	20 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft	20 ft	22 ft	22 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft	22 ft	24 ft	24 ft

Table 5

Diving Board Height Above Water	To Pool Side	To 1-Meter Board	To 3-Meter Board
Deck level to 1 meter	10 ft	8 ft	10 ft
Greater than 1 meter	11 ft	10 ft	10 ft

(3) There shall be a completely unobstructed clear distance of 13 ft above the diving board measured from the center of the front end of the board. This area shall extend at least 8 ft behind, 8 ft to each side, and 16 ft beyond the end of the diving board.

(4) Diving boards and platforms over 3 meters high are prohibited except where approved by the department.

(5) Diving boards and platforms shall have slip-resistant surfaces.

(6) Diving board supports, ladders, and guardrails.

1. Supports, platforms, and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads.

2. Ladders, steps, supports, handrails and guardrails shall be of corrosion-resistant materials or shall be provided with a corrosion-resistant coating. They shall be designed to have no exposed sharp edges. Ladder steps shall have slip-resistant surfaces.

3. Handrails shall be provided at steps and ladders leading to diving boards and diving platforms. Guardrails shall be provided for diving boards and platforms which are more than 1 meter above the water. Guardrails for diving boards and platforms shall be at least 36 inches high and shall have at least one horizontal mid-bar and shall extend to the edge of the water.

b. Starting blocks and starting block installation shall meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations).

c. Stairs, ladders, and recessed steps.

(1) Ladders or recessed steps shall be provided in the deep portion of a swimming pool and in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft. Stairs or ramps may be used instead of ladders or recessed steps at the shallow end of the swimming pool.

(2) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs shall be installed on each side. If a stairway centered on the shallow end wall of the swimming pool is within 30 ft of each side of the swimming pool, that end of the swimming pool shall be considered in compliance with this subrule.

(3) The foot contact surfaces of stairs, ramps, ladder rungs, and recessed steps shall be slip-resistant.

(4) Ladders.

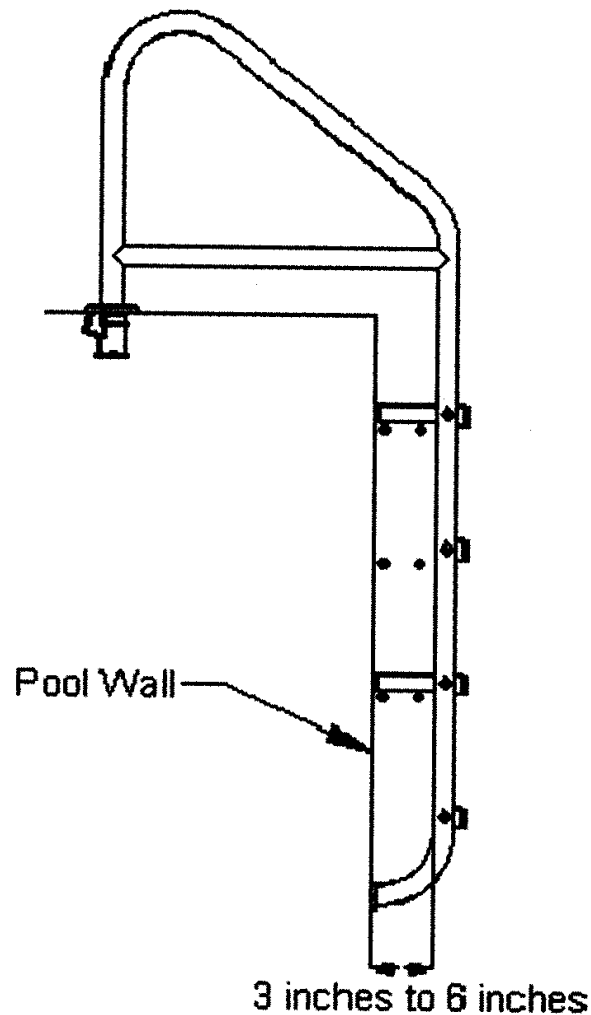
1. Ladders shall have a handrail on each side which extends from below the water surface to the top surface of the deck.

2. Ladders, treads, or supports shall be of a color contrasting with the swimming pool walls; however, stainless steel ladders may be used with stainless steel wall pools.

3. A ladder shall have a tread width of at least 16 inches and a uniform rise of 12 inches or less.

4. The distance between the swimming pool wall and the vertical rail of a ladder shall be no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail shall be securely covered with a smooth nonmetallic cap. The lower end of each ladder rail shall be within 1 inch of the swimming pool wall.

Figure 4



(5) Recessed steps.

1. Recessed steps shall have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.
2. Each set of recessed steps shall be equipped with a securely anchored deck-level grab rail on each side.
3. Recessed steps shall drain to the pool.

(6) Stairs.

1. Stairs shall have a uniform tread depth of at least 12 inches and a uniform rise of no more than 10 inches. The area of each tread shall be at least 240 in².
2. Stairs shall be provided with at least one handrail for each 12 ft in width. Handrails shall be between 34 inches and 38 inches high, measured vertically from the line defined by the front edge of the steps.
3. A stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor shall be marked at the top front edge of each tread. The stripe shall be slip-resistant.

(7) Handrails and grab rails.

1. Ladders, handrails, and grab rails shall be designed to be securely anchored so that tools are required for their removal.
2. Ladders, handrails, and grab rails shall be constructed of corrosion-resistant materials or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

d. Floor slope. The bottom of the swimming pool shall slope toward the main drain(s). The slope of the swimming pool bottom where the water is less than 5 ft deep shall not exceed 1 ft vertical in 12 ft horizontal.

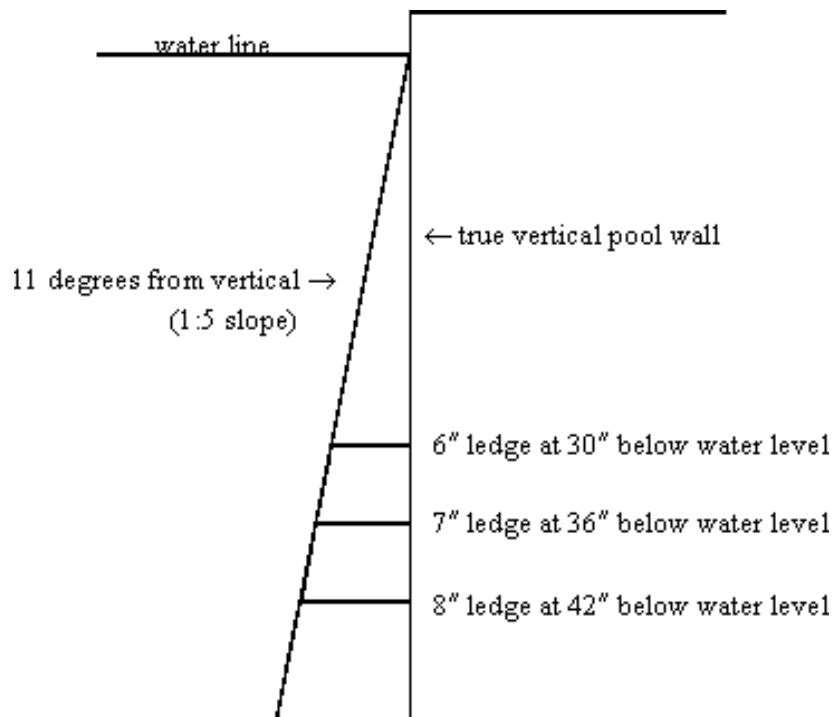
(1) Subject to the approval of the department, a swimming pool may be designed to have the change in slope (from 1:12 or less to a steeper slope) at a point where the water depth is less than 5 ft. The marking requirements of 15.5(13) "f"(3) and 15.5(13) "f"(4) shall apply and, if possible, depth markers which are clearly visible to persons in the pool shall be provided.

(2) For a wave pool, steeper slopes may be approved by the department if they are required for the proper function of the wave pool.

e. Walls.

(1) Walls in the deep section of a swimming pool shall be vertical to a water depth of at least 2.8 ft. If a transition radius is provided, it shall comply with Figure 3.

Figure 5



(2) The term "vertical" is interpreted to permit slopes not greater than 1 ft horizontal for each 5 ft of depth of side wall (11° from vertical).

(3) Ledges, when provided, shall fall within an 11° line from vertical, starting at the water surface (Figure 5). A ledge shall be no less than 4 inches wide and no more than 8 inches wide. A ledge shall have a slip-resistant surface.

f. Surface finish and markings.

(1) The swimming pool floor shall have a slip-resistant finish.

(2) The bottom and sides of the swimming pool shall be white or a light color. This does not prohibit painting or marking racing lines or turn targets.

(3) Where the slope of a swimming pool bottom in a shallow area changes from 1:12 or less to a slope greater than 1:12, or at the 5-ft depth area, the pool bottom and sides shall be marked with a stripe at least 4 inches wide in a color contrasting with the pool bottom and sides. The stripe shall be on the shallow side of the slope change or 5-ft depth area within 6 inches of the slope change or 5-ft depth area. Depending on the pool configuration, more than one stripe may be required.

(4) A float line with floats no more than 5 ft apart shall be installed on the shallow side of the stripe required in 15.5(13) "f"(3) within 12 inches of the stripe.

(5) The landing area for a swimming pool slide or a water slide which does not terminate in a separate plunge pool shall be delineated by a float line or as approved by the department.

(6) Depth markers.

1. Depth markers shall be painted or otherwise marked on the deck within 3 ft of the edge of a swimming pool. The depth of a wave pool shall also be marked on the side walls of the wave pool above the maximum static water level where the static water depth is 3 ft or more and on the deep-end wall of the wave pool.

2. Depth markers shall be located 25 ft apart or less, center to center, around the full perimeter of a swimming pool.

EXCEPTIONS: Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required on the deck of a plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

3. The maximum depth of a swimming pool shall be marked on both sides of a swimming pool at the main drain.

4. The water depth of a swimming pool shall be marked at both ends of a float line required by 15.5(13)“f”(4).

5. In shallow water, the depth shall be marked at 1-ft depth intervals starting at one of the points specified in “3” and “4” above, if the 1-ft depth interval is less than 25 ft. The zero depth shall be used as the starting point for a zero-depth swimming pool.

6. In deep water, the words “Deep Water” may be used in place of numerals except as required in “3” above.

7. “No Diving” or equivalent wording or graphics shall be marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers shall be 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required at the zero-depth end of a wave pool or of a zero-depth swimming pool. “No Diving” or equivalent wording or graphics shall be marked on the deck of a leisure river in the areas where users will be permitted. The “No Diving” markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

8. Letter, number and graphic markers shall be slip-resistant, of a contrasting color from the deck and at least 4 inches in height.

9. In lieu of the requirements of “1” through “8” above, the maximum depth of a wading pool may be posted in lettering a minimum of 3 inches high at each entrance to the wading pool area and at least at one conspicuous location inside the wading pool enclosure. “No Diving” markers are not required at a wading pool.

10. The depth of a leisure river shall be posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users will be permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

g. Lifeguard chairs. One elevated lifeguard chair or station shall be provided for a swimming pool with a water surface area of 2000 to 4000 ft² inclusive; two chairs shall be provided if the area is 4001 to 6000 ft²; three chairs shall be provided if the area is 6001 ft² or more. A swimming pool is not required to have more than three lifeguard chairs or stations. This requirement does not apply to wave pools, leisure rivers or wading pools.

h. Emergency equipment and facilities.

(1) If a swimming pool facility employs lifeguards, whether required by rule or not, the lifeguards shall be provided with the minimum equipment required by their training including, but not necessarily limited to, rescue tubes and personal CPR masks.

(2) A minimum of one unit of lifesaving equipment shall be provided for each 1500 ft² of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than ten units of lifesaving equipment.

(3) A unit of lifesaving equipment consists of at least one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a ¼-inch diameter line with a length at least one-half the width of the pool, but no more than 60 ft; or
2. A life pole with a “shepherd’s crook,” having blunted ends with a minimum length of 8 ft; or
3. A rescue buoy which is made of a hard, buoyant plastic and is provided with molded handgrips along each side, a shoulder strap, and a towing rope between 4 and 6 ft long; or
4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the ring end shall be a 6-ft-long towline with a shoulder strap; or
5. Any other piece of rescue equipment approved by the department.

Rescue equipment identified in 15.5(13) “h”(3) “3” and 15.5(13) “h”(3) “4” above shall be used only at swimming pools where lifeguards are employed.

(4) Whenever lifeguard chairs are provided, each chair shall be equipped with at least one unit of lifesaving equipment.

(5) A standard spine board with straps and head immobilizer shall be provided at each swimming pool where lifeguards are required by rule.

i. Pool enclosures.

(1) Except for a fill and drain wading pool, a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure shall be constructed of durable materials.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is accessible if it is on the exterior of the fence relative to the swimming pool, or if the space between the vertical members of a fence is greater than 1¼ inches.

(3) Gates and doors shall be installed in the enclosure for general access, maintenance and emergency access. At least one 36-inch-wide gate or door shall be installed for emergency access. When closed, gates and doors shall comply with the requirements of 15.5(13) “i”(1) and (2). Gates and doors shall be lockable. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors shall be self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool shall have a barrier at least 36 inches high separating it from the swimming pool. A barrier installed after May 4, 2005, shall have no openings that would allow the passage of a 4-inch sphere and shall not be easily climbable by toddlers. The barrier shall have at least one 36-inch-wide gate or door. Gates and doors shall be lockable. Except where lifeguard supervision is provided, gates and doors shall be self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at facilities where lifeguards are provided whenever the pools are open. The alternate management plan shall be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool shall be enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the swimming pool area. No opening in the barrier shall permit the passage of a 4-inch sphere. The barrier shall not be easily climbable by toddlers. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates and doors shall be self-closing and self-latching.

j. Electrical. Construction or reconstruction shall meet the requirements in Section 680 of the National Electrical Code, 70-05, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, and the following requirements:

(1) Each electrical outlet in the deck, shower and dressing rooms and the pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are

not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker.

(2) An underwater light circuit shall be equipped with a GFCI unless the underwater light(s) operates at 15 volts or less.

k. *Lighting.* Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

(1) Underwater lighting of at least 8 lamp lumens/ft² or 0.5 watts/ft² of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 lumens/ft² or 0.6 watts/ft² of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 lumens/ft² or 2.0 watts/ft² of swimming pool water surface area shall be provided.

l. *Swimming pool slides.* Swimming pool slides shall meet the requirements of the January 1, 2004, product standard of the United States Consumer Product Safety Commission (CFR Title 16, Part 1207). Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

15.5(14) *Wading pools.* Wading pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

a. A wading pool shall have at least 4 ft of deck.

b. *Overflow system.*

(1) Intermittent fixed weir overflow structures, including gutters, overflow fixtures, and drains at zero depth may be used. They shall have a hydraulic capacity of at least 125 percent of the recirculation flow rate. The designer shall be responsible for demonstrating that the overflow system will provide adequate skimming.

(2) If skimmers are used, there shall be at least one skimmer for every 500 ft² of water surface area or fraction thereof.

1. The recirculation flow rate shall be at least 3.8 gpm per lineal inch of skimmer weir or as required in 15.5(5) "b," whichever is greater.

2. The skimmer(s) suction line may be connected to the main drain line in lieu of an equalizer.

3. A skimmer(s) may be used in combination with overflow drains in a zero-depth wading pool.

c. *Inlet system.* Inlets shall be designed to uniformly distribute treated water throughout the wading pool. Wall and floor inlets or other means may be used, alone or in combination. The designer shall be responsible for demonstrating that the inlet system will provide adequate distribution of the treated water.

15.5(15) *Wave pools.* Wave pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

a. *Overflow not required.* Perimeter overflow gutters and skimmers are not required on the deep-end wall where the wave generation equipment is located.

b. *Overflow drain at zero depth.* There shall be an overflow drain or weir across the full width of the zero-depth end of the wave pool. Full width is interpreted to allow construction joints at each end of the drain. The combined length of the joints shall be no more than 10 percent of the width of the end of the pool.

The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is securely fastened to the pool floor and cannot be removed without a tool or tools.

c. *Deck above zero depth.* The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

d. *Overflow gutter or fittings.* There shall be a perimeter overflow gutter or overflow fittings along both sides of the wave pool where the water is 3 ft deep or more.

(1) If a perimeter overflow gutter is used, it shall be designed to prevent entrapment during wave action. Overflow grates shall be securely fastened so they will not be dislodged by wave action.

(2) Overflow fittings need not be continuous, but they shall be spaced no more than 10 ft apart.

e. *Overflow capacity.* The combined hydraulic capacity of the overflow drain at zero depth and the gutter or overflow outlets shall be at least 125 percent of the recirculation flow rate.

- f. Main drains.* The main drain system shall comply with the requirements of 15.5(10).
- g. Wave generator openings.* Openings or connections between the wave pool and the wave generation equipment shall be designed to prevent entrapment of users.
- h. Side barrier.* There shall be a continuous barrier along the full length of each side of a wave pool. The barrier shall be at least 42 inches high and installed no more than 3 ft from the side of the wave pool.
- i. Emergency switches.* Emergency switches which will stop the wave action shall be provided in at least four locations on the deck of the wave pool. Switch locations shall be marked by signs or contrasting bright colors.
- j. Float line.* A wave pool shall be equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users shall not be permitted between the float line and the deep-end wall.

15.5(16) Zero-depth swimming pools. Zero-depth swimming pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

a. Overflow drain at zero depth. There shall be an overflow drain or weir across the full width of the zero-depth end of the swimming pool. Full width is interpreted to allow construction joints at each end of the drain. The combined length of the joints shall be no more than 10 percent of the width of the end of the pool.

(1) The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is not removable without a tool.

(2) The drain and its associated piping shall be designed to convey at least 50 percent of the recirculation flow rate.

b. Deck above zero depth. The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

c. Perimeter overflow gutter. If a perimeter overflow gutter is provided, the gutter may be interrupted in the area where the water is less than 2 ft deep provided that:

(1) The length of the perimeter overflow gutter and overflow drain shall be at least 60 percent of the total pool perimeter.

(2) The hydraulic capacity of the perimeter overflow gutter system combined with the overflow drain shall be at least 125 percent of the recirculation flow rate.

d. Skimmers. Recessed automatic surface skimmers may be used with the overflow drain at zero depth in accordance with 15.5(9)“a.” The hydraulic capacity of the skimmer/drain system shall be at least 125 percent of the recirculation flow rate.

15.5(17) Water slides. Water slides shall comply with the applicable provisions of 15.5(1) to 15.5(13) and the following:

a. Flume construction. A water slide flume shall comply with the following:

(1) The flume shall be perpendicular to the plunge or swimming pool wall for at least 10 ft from the flume end.

(2) The flume shall be sloped no more than 1 ft vertical in 10 ft horizontal for at least 10 ft before the end of the flume.

(3) The flume shall terminate between 6 inches below and 2 inches above the design water level in the plunge pool or swimming pool.

(4) There shall be at least 5 ft between the side of the plunge pool or swimming pool and the side of the flume. Adjacent flumes shall be at least 10 ft apart on center.

(5) The inside surface of a flume shall be smooth and continuous.

(6) The flume shall be designed to ensure that users cannot be thrown out of the flume and to minimize user collisions with the sides of the flume.

(7) The flume shall have no sharp edges within reach of a user while the user is in the proper riding position.

(8) The flume path shall be designed to prevent users from becoming airborne while in the ride.

b. Water slide landing areas. The landing area for a water slide flume shall comply with the following:

(1) The water depth shall be at least 3 ft and no more than 4 ft at the end of the flume and for at least 15 ft beyond the end of the flume.

(2) The landing area floor may slope up to a minimum of 2 ft water depth subject to (1) above. The slope shall be no greater than 1 ft vertical in 12 ft horizontal.

(3) There shall be at least 20 ft between the end of the flume and any barrier or steps.

(4) If the water slide flume ends in a swimming pool, the landing area shall be divided from the rest of the swimming pool by a float line or as approved by the department.

c. Speed slides. A speed slide shall provide for the safe deceleration of the user. A run-out system or a special plunge pool entry system shall control the body position of the user relative to the slide to provide for a safe exit from the ride.

d. Decks. The deck around a water slide plunge pool shall be at least 4 ft wide, except on the side where the flume enters the pool. A walkway which is at least 4 ft wide and meets the requirements of a deck shall be provided between the plunge pool and the slide steps.

e. Alternate overflow systems. Intermittent fixed weir overflow structures may be used for a separate plunge pool if:

(1) Floor inlets are provided according to the requirements of 15.5(8) "c."

(2) The hydraulic capacity of the combined overflow structures and the appurtenant piping is at least 125 percent of the recirculation flow rate. The department may require more hydraulic capacity based on the specific design of the plunge pool system.

f. Pump reservoir. If a pump reservoir or surge tank is provided, it shall have a capacity of at least one minute of the combined recirculation and flume flow. Openings between the plunge pool and the pump reservoir or surge tank shall be designed and constructed in accordance with 15.5(10) "a" and "b."

g. Swimming pool water level. If the water slide flume ends in a swimming pool, the water level shall not be lowered more than 1 inch when the flume pump(s) is operating.

h. Suction outlets. If a fully submerged suction outlet is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. The suction outlet system shall be designed in accordance with 15.5(10) "b."

i. Outlet covers. Rescinded IAB 6/3/09, effective 7/8/09.

j. Water slide support structure. The support structure for a water slide and for any access stairs or ramps shall be designed and constructed to withstand the anticipated structural loading, both static and dynamic, including wind forces.

k. Stairs. A stairway providing access to the top of a water slide shall be at least 2 ft wide. Stair surfaces shall be slip-resistant and easily cleanable. The stairway shall comply with the applicable requirements of state and local building codes and Occupational Safety and Health Administration requirements.

l. Alternate water slide designs. Water slides differing substantially from the standards in this subrule may be approved if the designer provides sufficient information to demonstrate to the department that the slide and its landing area can be operated safely.

15.5(18) Multisection water recreation pools. A multisection water recreation pool shall comply with the applicable provisions of 15.5(1) to 15.5(13) and the following:

a. Recirculation flow rate. The minimum recirculation flow rate for a multisection water recreation pool shall be determined by computing the recirculation flow rate for each section of the pool in accordance with 15.5(5) "b" and adding the flow rates together.

b. Water distribution. The treated water distribution system shall be designed to return treated water to the sections of the pool in proportion to the flow rates determined in "a" above.

c. Float lines. Each section of a multisection water recreation pool shall be separated from the other sections by a float line meeting the requirements of 15.5(13) "f"(4).

15.5(19) Spray pads. A spray pad shall comply with the applicable provisions of 15.5(1) through 15.5(13) and the following:

a. The surface of a spray pad shall be impervious and durable. Padding specifically designed for spray pads may be used with play features. The padding shall be water resistant or shall permit full drainage without retaining water in its structure. Walking surfaces shall be slip-resistant.

b. The spray pad surface shall slope to drain at least 1/8 inch per ft, but no more than 1/2 inch per ft. Deck or other areas outside the spray pad shall not drain into the spray pad.

c. A spray pad shall be exempt from fencing requirements (15.5(13)“i”); “No Lifeguard” sign requirements (15.4(6)“d”); safety equipment requirements (15.4(4)“f”); and depth marking requirements (15.4(4)“j”). Unless the spray pad is supervised by facility staff, a sign shall be posted near the spray pad that addresses:

- (1) No running on or around the spray pad.
- (2) No rough play.
- (3) No facility supervision. Parents are responsible for supervising their children.

Facility management may adopt and post other rules deemed necessary for user safety and the proper operation of the spray pad.

d. Spray pad drains shall be gravity outlets. At least two drains shall be provided, or a single drain that is unblockable shall be provided.

(1) The drain system and associated piping shall be designed for 125 percent of the flow into the spray pad (play feature and recirculation, as applicable).

(2) Each drain cover/grate shall be flush with the spray pad surface and shall have no opening wider than ½ inch.

(3) Each drain cover/grate shall be designed to be securely fastened to the spray pad so that the drain cover/grate is not removable without tools.

(4) Drain cover/grates that are exposed to foot traffic shall:

1. Have a slip-resistant surface; and

2. Support a 300-pound concentrated load when tested in accordance with the ASME standard, Section 3.3. Structural strength shall be verified by documentation of test results from a testing agency approved by the department or by certification by an engineer licensed in Iowa; and

3. If the drain cover is exposed to sunlight, be resistant to ultraviolet light (UV) in accordance with the ASME standard, Section 3.2.2. UV resistance shall be verified by documentation of test results from a testing agency approved by the department or by certification by an engineer licensed in Iowa.

e. Spray pads with independent treatment systems.

(1) The minimum volume of water for a spray pad shall be two minutes of the flow of the play features and the recirculation system combined.

(2) The water storage tank shall have a volume of at least 125 percent of the volume specified in (1). The tank shall be accessible for cleaning and inspection.

(3) The recirculation (treatment) system and the play feature pump and piping system shall be separate.

(4) The recirculation system inlet(s) and outlet(s) within the water storage tank shall be designed to ensure a uniform disinfectant concentration and pH level throughout the water volume of the spray pad.

(5) The play feature pump system shall be designed so that it will not operate if the recirculation system is not operating.

(6) There shall be a readily accessible sample tap in the equipment area that allows sampling of the water in the play feature piping.

f. Spray pads using water from an adjacent swimming pool or wading pool.

(1) If there is a suction outlet in the swimming pool or wading pool for the play feature pump(s), the outlet shall be designed as a main drain as specified in 15.5(10). Water velocity through the outlet cover shall be 1½ ft per sec or less.

(2) If the adjacent pool has a volume of 10,000 gallons or less, or if the spray pad water is circulated directly from the swimming pool surge tank, the spray pad pump system shall be equipped for automatic supplemental disinfection in accordance with 15.5(11), except that the disinfection capacity shall be at least one-half of the capacity specified in 15.5(11)“c”; with filtration in accordance with 15.5(6); or both.

g. Play features and sprays shall be designed and installed so that they do not create a safety hazard.

(1) Surface sprays shall be flush with the spray pad surface. Spray openings shall have a diameter of ½ inch or less. Noncircular spray openings shall have a width of ½ inch or less.

(2) Aboveground features shall not present a tripping hazard. Features shall have no sharp edges or points and no rough surfaces. Aboveground features shall be constructed of corrosion-resistant materials or provided with a corrosion-resistant coating. Accessible spray openings shall have a diameter of ½ inch or less. Noncircular accessible spray openings shall have a width of ½ inch or less.

15.5(20) *Leisure rivers.* A leisure river shall comply with the applicable requirements of 15.5(1) through 15.5(13) and the following:

a. The leisure river propulsion system and recirculation system shall be separate.

b. Intermittent fixed weir structures may be used for the overflow system. At least two separate fixed weir structures shall be used. The hydraulic capacity of the overflow system using fixed weir structures shall be at least 125 percent of the recirculation flow rate. Fixed weir structures shall be designed to prevent entrapment of leisure river users.

c. A deck as specified in 15.5(4) is not required in areas where users are not permitted. A leisure river and the area on the inside and outside perimeter of the leisure river shall be designed to ensure that lifeguard staff and emergency personnel can access any part of the leisure river quickly and to provide a sufficient hard surface area for emergency functions.

d. The depth of a leisure river shall be posted conspicuously at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users are permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

e. “No Diving” characters or graphics shall be marked every 25 ft on center on the deck in deck areas where users are permitted.

f. At least one user egress point shall be provided for each 500 ft of leisure river length (measured at the centerline) or fraction thereof.

g. Outlets for the leisure river propulsion system shall be designed in accordance with 15.5(10) “b.”

15.5(21) *Showers, dressing rooms, and sanitary facilities.*

a. *Facilities required.* Bather preparation facilities shall be provided at each swimming pool facility except where the swimming pool facility is intended to serve living units such as a hotel, motel, apartment complex, condominium association, dormitory, subdivision, mobile home park, or resident institution.

b. *Swimming pool patron load.* If a bathhouse is provided, the patron load for determining the minimum sanitary fixtures (Table 6) is:

(1) One individual per 15 ft² of water surface in shallow areas.

(2) One individual per 20 ft² of water surface in deep areas with the exclusion of 300 ft² of water surface for each diving board.

(3) For each swimming pool slide, 200 ft² shall be excluded, and for each water slide which terminates in the swimming pool, 300 ft² shall be excluded in determining the patron load.

c. *Bathhouses.*

(1) A bathhouse shall be designed and constructed to meet the requirements of the local building ordinance. If no local ordinance is in effect, the bathhouse shall be designed to meet the requirements of the state of Iowa building code, 661—Chapter 16, Iowa Administrative Code.

(2) Bathhouse floors shall have a slip-resistant finish and shall slope at least 1/8 inch/ft to drain. Except as provided in 15.5(19) “c”(3), floor coverings shall comply with the requirements of 15.5(4) “c.”

(3) Olefin, or other approved carpeting, may be permitted in locker room or dressing room areas provided:

1. There is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other areas where water can accumulate.

2. Drip areas shall be constructed of materials as described in 15.5(4) “b” and 15.5(4) “c.”

(4) Bathhouse fixtures shall be provided in accordance with Table 6.

Table 6
Fixtures Required

Patron Load	Male				Female		
	Showers	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories
1 - 100	1	1	1	1	1	1	1
101 - 200	2	1	2	1	2	3	1
201 - 300	3	1	3	1	3	4	1
301 - 400	4	2	3	2	4	5	2
401 - 500	5	3	3	2	5	6	2
501 - 1000	6	3	4	2	6	7	2

(5) All indoor swimming pool areas, bathhouses, dressing rooms, shower rooms, and toilets shall be ventilated by natural or mechanical means to control condensation and odors.

d. Showers and lavatories.

(1) Showers shall be supplied with water at a temperature of at least 90°F and no more than 110°F and at a rate of no more than 3 gpm per shower head.

(2) Soap dispensers or bar soap trays shall be provided at each lavatory and in the showers. Glass soap dispensers are prohibited.

e. Hose bibs. At least one hose bib shall be installed within the bathhouse.

f. Storage-type hot water heaters.

(1) Gas-fired storage-type hot water heaters shall comply with the requirements of ANSI/AGA Z21.10.1-2001, or with the requirements of ANSI/AGA Z21.10.3-2001. The heater shall bear the mark of the AGA.

(2) Electric storage-type hot water heaters shall comply with the requirements of ANSI/UL 174-1996. The heater shall bear the mark of UL.

(3) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(4) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

[ARC 7839B, IAB 6/3/09, effective 7/8/09; ARC 2279C, IAB 12/9/15, effective 1/13/16]

ADMINISTRATION

641—15.6(135I) Enforcement.

15.6(1) The department may inspect swimming pools and spas regulated by these rules and enforce these rules. A city, county or district board of health may inspect swimming pools and spas regulated by these rules and enforce these rules in accordance with agreements executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I.

15.6(2) The inspection agency shall take the following steps when enforcement of these rules is necessary.

a. Owner notification. As soon as possible after the violations are noted, the inspection agency shall provide written notification to the owner of the facility that:

- (1) Cites each section of the Iowa Code or Iowa Administrative Code violated.
- (2) Specifies the manner in which the owner or operator failed to comply.
- (3) Specifies the steps required for correcting the violation.
- (4) Requests a corrective action plan, including a time schedule for completion of the plan.
- (5) Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the facility must respond.

b. Corrective action plan review. The inspection agency shall review the corrective action plan and approve it or require that it be modified.

c. Failure to comply. When the owner of a swimming pool or spa fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapters 137 and 135I, or in accordance with local ordinances.

d. Adverse actions and the appeal process. If the department determines that the provisions of Iowa Code chapter 135I and these rules have been or are being violated, the department may withhold or revoke the registration of a swimming pool or spa, or the department or the local board of health may order that a swimming pool or spa be closed until corrective action has been taken. If the swimming pool or spa is operated without being registered, or in violation of the order of the department, the department or local inspection agency may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

(1) A local inspection agency may request that the department withhold or revoke the registration of a swimming pool or spa, or issue an order to close a swimming pool or spa. The request shall be in writing and shall list the violations of Iowa Code chapter 135I and these rules that have occurred or are occurring when the request is made. The local inspection agency shall provide a full accounting of the actions taken by the local inspection agency to enforce Iowa Code chapter 135I and these rules.

(2) Notice of the decision to withhold or revoke the registration for a swimming pool or spa, or an order to close a swimming pool or spa shall be delivered by restricted certified mail, return receipt requested, or by personal service. The notice shall inform the owner of the right to appeal the decision and the appeal procedures. The local inspection agency and the county attorney in the county where the swimming pool or spa is located shall be notified in writing of the decision or order.

(3) An appeal of a decision to withhold or revoke a registration or of an order to close shall be submitted by certified mail, return receipt requested, within 30 days of receipt of the department's notice. The appeal shall be sent to the Iowa Department of Public Health, Division of Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the decision or order shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the decision or order upon satisfaction that the reason for the decision or order has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the decision or order. If no appeal is submitted within 30 days, the decision or order shall become the department's final agency action.

(4) Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within 5 working days of receipt pursuant to the rules adopted by that department regarding the transmission of contested cases. The information upon which the revocation or withholding is based shall be provided to the department of inspections and appeals.

(5) The hearing shall be conducted in accordance with 481—Chapter 10.

(6) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department's final agency action without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subparagraph 15.6(2)“d”(7).

(7) Any appeal to the director of the department for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within 10 days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

(8) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

1. All pleadings, motions and rules.
2. All evidence received or considered and all other submissions by recording or transcript.
3. A statement of all matters officially noticed.

4. All questions and offers of proof, objections, and rulings thereon.
5. All proposed findings and exceptions.
6. The proposed findings and order of the administrative law judge.
- (9) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested.
- (10) It is not necessary for the owner to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department that has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.
- (11) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent by certified mail, return receipt requested, or by personal service to the Iowa Department of Public Health, Division of Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.
- (12) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

641—15.7(135I) Variances. A variance to these rules may be granted only by the department. A variance can be granted only if sufficient information is provided to substantiate the need for and propriety of the action.

15.7(1) Requests for variances shall be in writing and shall be sent to the local inspection agency for comment. The local inspection agency shall send the request for variance to the department within 15 business days of its receipt.

15.7(2) The granting or denial of a variance will take into consideration, but not be limited to, the following criteria:

- a. Substantially equal protection of health and safety shall be provided by a means other than that prescribed in the particular rule, or
- b. The degree of violation of the rule is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate this minor violation would incur substantial and unreasonable expense on the part of the person seeking a variance.

15.7(3) Decisions shall be issued in writing by the department and shall include the reasons for denial or granting of the variance. Copies of decisions shall be kept at the department, and a copy shall be sent to the contracting board of health.

15.7(4) The applicant for a variance that is denied may request a review of the denial by the director of the department. The request shall be submitted in writing within 30 days of the applicant's receipt of the department's denial of a variance request. The request for a review shall be addressed to the Iowa Department of Public Health, Office of the Director, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The decision of the director shall be considered the department's final agency action.

15.7(5) The applicant may petition for judicial review of the final agency action pursuant to Iowa Code chapter 17A.

641—15.8(135I) Penalties. A person violating a provision of this chapter shall be guilty of a simple misdemeanor pursuant to the authority of Iowa Code section 135I.5. Each day upon which a violation occurs constitutes a separate violation.

641—15.9(135I) Registration.

15.9(1) *Swimming pool and spa registration.* No swimming pool or spa shall be operated in the state without being registered with the department. The owner of a swimming pool or spa or the owner's designated representative shall register the swimming pool or spa before the swimming pool or spa is first used and shall renew the registration annually on or before April 30. The initial registration and

registration renewal shall be submitted on forms supplied by the department. The registration for a swimming pool or spa is valid from May 1 through the following April 30.

15.9(2) *Change in ownership.* Within 30 days of the change in ownership of a swimming pool or spa, the new owner shall furnish the department with the following information:

- a. Name and registration number of the swimming pool or spa.
- b. Name, address, and telephone number of new owner.
- c. Date the change in ownership took place.
- d. A nonrefundable fee of \$20 per swimming pool or spa.

15.9(3) *Withholding registration.* The department may withhold or revoke the registration of a swimming pool or spa pursuant to 15.6(2) “d” if an owner or the owner’s designated representative has violated a provision of Iowa Code chapter 135I or a rule in this chapter.

641—15.10(135I) Training courses.

15.10(1) A training course designed to fulfill the requirements of 641—15.11(135I) shall be reviewed by the department.

15.10(2) At least 15 days prior to the course date, the course director shall submit at a minimum the following to the department:

- a. A course outline with a list of instructors and guest speakers and their qualifications.
- b. Date or dates the course is to be held.
- c. Place the course is to be held.
- d. Number of hours of instruction.
- e. Course agenda.

15.10(3) The department shall approve or disapprove the course of instruction in writing within 10 business days of receipt of the information required in 15.10(2).

15.10(4) Within 30 business days after the conclusion of the course of instruction, the course director shall furnish the department with the name and address of each person who successfully completed the course.

641—15.11(135I) Swimming pool/spa operator qualifications.

15.11(1) A person designated as a certified operator of a facility for compliance with 15.4(6) “a” and 15.51(5) “a” shall have successfully completed a CPO® certification course, an AFO certification course, a PPSO certification course, an LAFT certification course, or another course of instruction approved by the department. A copy of a current, valid CPO®, AFO, PPSO, or LAFT certificate for the certified operator shall be maintained in the pool or spa records.

15.11(2) A certified operator with a CPO® certificate, a PPSO certificate, or an LAFT certificate shall attend at least ten hours of continuing education between the original certification date and the first renewal of the certificate, and shall attend at least ten additional hours of continuing education before each subsequent renewal of the certificate. A certified operator with an AFO certificate shall attend at least six hours of continuing education between the original certification date and the first renewal of the certificate, and shall attend at least six additional hours of continuing education before each subsequent renewal of the certificate. The department shall determine the continuing education requirements for a certified operator training course that is approved after May 4, 2005. Proof of continuing education shall be kept with certification records at the facility.

641—15.12(135I) Fees.

15.12(1) *Registration fees.* For each swimming pool or spa, the registration fee is \$35. Registration fees are delinquent if not received by the department by April 30 or the first business day thereafter. The owner shall pay a \$25 penalty for each month or fraction thereof that the fee is late for each swimming pool or spa that is required to be registered.

15.12(2) *Registration change fees.* For each swimming pool or spa, the fee for a change of ownership, change of facility name, or other change in registration is \$20.

15.12(3) Inspection fees. The inspection agency shall bill the owner of a facility upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

When the swimming pool is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency shall be paid to the local inspection agency or its designee.

a. Inspection fee schedule.

Table 7
Swimming Pools and Spas

Pool Type	Inspection Fee
Swimming pool or leisure river, surface area less than 1500 ft ²	\$170
Swimming pool or leisure river, surface area 1500 ft ² or greater	\$270
Wave pool	\$270
Water slide and plunge pool	\$270
Spa	\$170
Wading pool less than or equal to 500 ft ²	\$50
Wading pool greater than 500 ft ²	\$90
Residential swimming pool used for commercial purposes	\$50

Table 8
Water Slides

	Inspection Fee
Each additional water slide into a plunge pool	\$75
Water slide into a swimming pool	\$175
Each additional water slide into a swimming pool	\$75

b. Multipool facilities. If more than one pool (swimming pool, water slide, wave pool, wading pool, or spa) is located within a fenced compound or a building, the inspection fee for the pools in the fenced compound or building shall be reduced by 10 percent. This reduction does not apply to the fees specified in Table 8.

c. Special inspection fee. When an inspection agency determines that a special inspection is required, i.e., a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee which shall be based on the actual cost of providing the inspection.

d. Penalty. Unpaid inspection fees will be considered delinquent 45 days after the date of the bill. A penalty of \$30 per month or fraction thereof that the payment is delinquent will be assessed to the owner for each pool inspected.

15.12(4) Plan review fees.

a. New construction. A plan review fee as specified in Tables 9, 10 and 11 shall be submitted with a construction permit application for each body of water in a proposed facility. If two or more pools share a common recirculation system as specified in 15.5(5)“a,” the plan review fee shall be 25 percent less than the total plan review fee required by Tables 9, 10 and 11.

Table 9
Swimming Pools, Wading Pools and Wave Pools

Swimming Pool Area (ft ²)	Plan Review Fee
less than 500	\$165
500 to 999	\$275
1000 to 1999	\$385
2000 to 3999	\$550*
4000 and greater	\$825*

*This may include one water slide.

Table 10
Water Slides

Description	Plan Review Fee
Water slide and dedicated plunge pool	\$550
Each additional water slide into a plunge pool or swimming pool	\$165

Table 11
Spas

Spa Volume (gal)	Plan Review Fee
less than 500	\$165
500 to 999	\$275
1000 +	\$385

b. Reconstruction. The plan review fee for reconstruction is \$250 for each swimming pool, spa or bathhouse altered in the reconstruction.

c. Penalty for construction without a permit. Whenever any work for which a permit is required has been started before a permit is issued, the plan review fee shall be 150 percent of the fee specified in 15.12(3)“a” or “b.” The department may require that construction not done in accordance with the rules be corrected before a facility is used.

EXCEPTION: After receiving a construction permit application, the department may authorize preliminary construction on a project to start before issuance of a permit. The authorization shall be in writing to the owner or the owner’s authorized representative.

15.12(5) Training fees. The course sponsor for a training course designed to fulfill the requirements of 641—15.11(135I) shall pay to the department a fee of \$20 for each person who successfully completes the course. The fee is due within 30 business days of the completion of the course.

641—15.13(135I) 28E agreements. A city, county or district board of health may apply to the department for authority to inspect swimming pools and spas and enforce these rules.

15.13(1) Application and review process. Applications shall be made to the Iowa Department of Public Health, Swimming Pool Program, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

15.13(2) Each application shall include, at a minimum:

a. A commitment that inspectors will meet the educational requirements of 641—15.11(135I). A person who is a registered sanitarian (R.S.) or a registered environmental health specialist (R.E.H.S.) with the National Environmental Health Association shall be considered to have met the educational requirements of subrule 15.11(2).

b. A statement of the ability of the board of health to provide inspections of all swimming pools and spas within the contracted area.

c. A statement of the ability of the board of health to follow enforcement procedures contained in subrule 15.6(2).

15.13(3) If the department approves the application, the 28E agreement shall be perpetual, subject to the conditions set forth by both parties. The agreement shall include the terms and conditions required by Iowa Code chapter 28E and any additional terms agreed to by the parties.

641—15.14(135I) Application denial or partial denial—appeal.

15.14(1) Denial or partial denial of an application shall be done in accordance with the requirements of Iowa Code section 17A.12. Notice to the applicant of denial or partial denial shall be served by restricted certified mail, return receipt requested, or by personal service.

15.14(2) Any request for appeal concerning denial or partial denial shall be submitted by the aggrieved party, in writing, to the department by certified mail, return receipt requested, within 30 days of the receipt of the department's notice. The address is Iowa Department of Public Health, Swimming Pool Program, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. Prior to or at the hearing, the department may rescind the denial or partial denial. If no request for appeal is received within the 30-day time period, the department's notice of denial or partial denial shall become the department's final agency action.

15.14(3) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals, pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

641—15.15 to 15.50 Reserved.

SPAS

641—15.51(135I) Spa operations. A spa shall be operated in a safe, sanitary manner and shall meet the following operational standards.

15.51(1) Filtration and recirculation.

a. Filters. A spa shall have a filtration system in good working condition which provides water clarity in compliance with the water quality standards of subrule 15.51(2).

(1) Each filter cartridge shall be replaced with a new, unused, or cleaned and disinfected filter cartridge in accordance with the manufacturer's recommendations for pressure rise at the inlet of the filter, but at least once a month. If a functioning pressure gauge is not present at the filter inlet, the filter cartridge(s) shall be replaced whenever the spa is drained and at least every two weeks. Filter cartridge replacements shall be recorded in the spa records.

(2) Each sand filter serving a spa shall be opened at least annually and the sand media examined for grease buildup, channeling and other deficiencies. The sand shall be cleaned and disinfected before the filter is put back into service. The annual inspection shall be recorded in the spa records.

(3) Each diatomaceous earth filter serving a spa shall be dismantled, and the filter socks and the interior of the filter shall be cleaned and disinfected at least annually. The annual cleaning shall be recorded in the spa records.

(4) The recirculation system shall have an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system shall have a vacuum gauge located between the filter and the pump.

b. The recirculation system for a spa shall treat one spa volume of water in 30 minutes or less.

c. Continuous operation required. Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the spa water recirculation system shall be operated continuously whenever the spa contains water, except for cleaning or servicing.

d. Inlets. The recirculation system shall have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the spa.

e. Skimmers. A spa shall have at least one skimmer.

(1) Each skimmer shall have a self-adjusting weir in place and operational.

(2) Each skimmer shall have an easily removable basket or screen upstream from any valve.

f. Wastewater. Wastewater and backwash water from a spa shall be discharged through an air break or an air gap.

g. Water supply. The water supplied to a spa shall be from a water supply meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a spa shall be discharged to the spa system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

h. Spa water heaters.

(1) Electric water heaters shall bear the seal of UL.

(2) Gas-fired water heaters shall bear the seal of the AGA and shall be equipped with a pressure relief valve.

(3) Fuel-burning water heaters shall be vented to the outside, in accordance with the Iowa state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

15.51(2) Water quality and testing.

a. Disinfection.

(1) Spa water shall have a free chlorine residual of at least 2.0 ppm and no greater than 8.0 ppm, or a total bromine residual of at least 4.0 ppm and no greater than 18 ppm when the spa is open for use, except as given in Table 12.

(2) A spa shall be closed if the free chlorine is measured to be less than 1.0 ppm or the total bromine is measured to be less than 2.0 ppm.

(3) The spa shall be closed if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm, except as given in Table 12.

(4) If an ORP controller with a readout meeting the requirements of 15.51(2) "f"(4) is installed on the spa system, the spa water shall have an ORP of at least 700 mV, but no greater than 880 mV, except as given in Table 12. The spa shall be closed if the ORP is less than 650 mV or greater than 880 mV.

(5) The spa shall be closed if the cyanuric acid concentration in the spa water exceeds 80 ppm. The spa may be reopened when the cyanuric acid concentration is 40 ppm or less.

(6) No cyanuric acid shall be added to an indoor spa after May 4, 2005, except through an existing chemical feed system designed to deliver di-chlor or tri-chlor. No cyanuric acid in any form shall be added to an indoor spa after June 30, 2008.

Table 12

Preferred Operating Range			Acceptable Operating Range		
ORP (mV)	Free Cl (ppm)	Total Br (ppm)	ORP (mV)	Free Cl (ppm)	Total Br (ppm)
700-880	2.0-8.0	4.0-18.0	700-880	1.0-1.8	2.0-3.5
			650-700 [#]	2.0-8.0	4.0-18.0
			650-700 [†]	8.2-10.0	18.5-22.0

[#] If these conditions occur on any 3 consecutive days or on any 5 days within a 7-day period, and the conditions reoccur after the spa is drained and cleaned, the facility management shall evaluate water parameters including, but not limited to, cyanuric acid, pH, combined chlorine, and phosphates (ortho- and total); and other conditions at the spa. The facility management shall modify parameters

and conditions as practical to bring the ORP to a minimum of 700 mV. The evaluation shall be completed within 30 days after the low ORP condition is known to the facility management. A written report of the evaluation shall be kept with the spa records.

† If these conditions occur on any 2 consecutive days or on any 4 days within a 7-day period, the facility management shall drain and clean the spa and notify the inspection agency. If the conditions reoccur after the spa is drained and cleaned, the facility management shall cause the conditions at the spa specified in the previous footnote and the function of the ORP equipment to be investigated by a professional pool service company. A written report detailing source water parameters, spa water parameters, spa design (including information about the installed mechanical and chemical equipment), other conditions affecting the disinfectant concentration and the ORP, and the actions taken to increase ORP relative to the disinfectant residual shall be submitted to the local inspection agency within 30 days after the low ORP condition is known to the facility management.

b. *pH level.* The pH of spa water shall be 7.2 to 7.8.

c. *Water clarity.* A spa shall be closed if the grate openings on drain fittings at or near the bottom of the spa are not clearly visible when the agitation system is off.

d. *Bacteria detection.*

(1) If coliform or *Pseudomonas aeruginosa* bacteria are detected in a sample taken in accordance with 15.51(2)“e”(8), the spa shall be drained, cleaned, and disinfected. The spa may reopen, and a check sample shall be taken when the spa water meets the requirements of paragraphs “a,” “b” and “c” above. If coliform or *Pseudomonas aeruginosa* bacteria are detected in the check sample, the spa shall be closed. The spa shall be drained, physically cleaned, and disinfected. The filter(s) shall be cleaned and disinfected.

1. For cartridge filters, the cartridge shall be replaced with a new, unused cartridge or a cleaned, disinfected cartridge; the filter housing shall be physically cleaned, then disinfected.

2. For sand and DE filters, the filter shall be opened and the media and components cleaned and disinfected.

The spa may reopen when no coliform or *Pseudomonas aeruginosa* bacteria are detected in a spa water sample taken when the spa water meets the requirements of paragraphs “a,” “b” and “c” above.

(2) The facility management shall notify the local inspection agency of the positive bacteriological result within one business day after the facility management has become aware of the result.

e. *Test frequency.* The results of the tests required below shall be recorded in the spa records.

(1) The disinfectant residual in the spa water shall be tested or the ORP of the spa water shall be checked each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building or a homeowners association with 25 or fewer living units, the disinfectant level in the spa water shall be tested or the ORP of the spa water shall be checked at least twice each day the spa is available for use.

If the spa is equipped with an automatic controller with a readout or local printout of ORP complying with the requirements of 15.51(2)“f”(4), the operator may make visual readings of ORP in lieu of manual testing, but the spa water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the spa records which results are from the manual tests.

(2) The pH of the spa water shall be tested each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building or a homeowners association with 25 or fewer living units, the pH of the spa water shall be tested at least twice each day the spa is available for use.

If the spa is equipped with an automatic controller with a readout or local printout of pH complying with the requirements of 15.51(2)“f”(5), the operator may make visual readings of pH in lieu of manual testing, but the spa water shall be tested manually for pH at least twice per day. The operator shall specify in the spa records which results are from the manual tests.

(3) The spa water temperature shall be measured whenever a manual test of the spa water is performed.

(4) If a chlorine compound is used for disinfection, the spa water shall be tested for combined chlorine at least once a day.

(5) If cyanuric acid or a stabilized chlorine is used in a spa, the spa water shall be tested for cyanuric acid at least once a day.

(6) The spa water shall be tested for total alkalinity each time the spa is refilled and at least once in each week that the spa is open for use.

(7) The spa water shall be tested for calcium hardness each time the spa is refilled.

(8) At least once in each month that a spa is open for use, a sample of the spa water shall be submitted to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water. The sample shall be analyzed for total coliform and *Pseudomonas aeruginosa*.

f. Test equipment.

(1) Each facility shall have functional water testing equipment for free chlorine and combined chlorine, or total bromine; pH; total alkalinity; calcium hardness; and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility).

(2) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(3) The test equipment shall provide for the measurement of spa water pH from 7.0 to 8.0 with at least five increments in that range.

(4) A controller readout used in lieu of manual disinfectant residual testing shall be a numerical analog or digital display (indicator lights are not acceptable) with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(5) A controller readout used in lieu of manual pH testing shall be a numerical analog or digital display (indicator lights are not acceptable) with a range at least as required in 15.51(2)“f”(3) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a spa is open for use.

15.51(3) Disinfection systems and cleaning.

a. Disinfectant system.

(1) Equipment for continuous feed of a chlorine or bromine compound to the spa water shall be provided and shall be operational. The equipment shall be adjustable in at least five increments over its feed capacity. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

(2) The disinfectant equipment shall be capable of providing at least 10 ppm of chlorine or bromine to the spa water based on the recirculation flow rate.

(3) Equipment and piping used to apply any chemicals to the water shall be of such size, design, and material that they may be cleaned. All material used for such equipment and piping shall be resistant to the action of chemicals to be used.

(4) The use of chlorine gas is prohibited.

b. Cleaning and superchlorination.

(1) A spa shall be clean.

(2) A spa containing 500 gal of water or less shall be drained, cleaned and refilled a minimum of once a week. A spa containing over 500 gal to 2000 gal of water shall be drained, cleaned and refilled a minimum of one time every two weeks. A spa with a water volume greater than 2000 gal shall be drained, cleaned and refilled a minimum of one time every three weeks.

The department may permit a longer period between refills for spas over 2000 gal upon evaluation of the use of the spa. Such permission shall be in writing, and a copy shall be available to an inspector upon request.

(3) The inspection agency may require that a spa be drained, cleaned, and superchlorinated prior to further usage.

15.51(4) Safety.

a. Chemical safety.

(1) No disinfectant chemical, pH control chemical, algaecide, shock treatment chemical, or any other chemical that is toxic or irritating to humans shall be added to a spa over the top when the spa is occupied. If chemicals are added to the spa over the top, the spa shall not be occupied for a period of

at least 30 minutes. The operator shall test the spa water as appropriate before allowing use of the spa. The chemical addition and the test results shall be recorded in the spa records.

(2) Spa chemicals shall be stored and handled in accordance with the manufacturer's recommendations.

(3) Material safety data sheets (MSDS) for the chemicals used in the spa shall be at the facility in a location known and readily accessible to the facility staff.

(4) Chemical containers shall be clearly labeled.

(5) A chemical hazard warning sign shall be placed at the entrance of a room where chemicals are used or stored or where bulk containers are located.

b. Stairs, ladders, recessed steps, and ramps.

(1) When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp shall be provided to the top of the spa.

(2) Stairs, ladders, ladder rungs, and ramps shall be slip-resistant.

(3) Where stairs and ramps are provided, they shall be equipped with a handrail.

(4) Ladders and handrails shall be constructed of corrosion-resistant materials or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

(5) Ladders, handrails and grabrails shall be securely anchored.

c. Water temperature. Water temperature in the spa shall not exceed 104°F. The spa shall be closed if the water temperature exceeds 104°F.

(1) A thermometer shall be available to measure temperatures in the range of 80° to 120°F.

(2) Water temperature controls shall be accessible only to the spa operator.

d. Emergency telephone. Each facility where lifeguards are not provided shall have a designated emergency telephone or equivalent communication system that can be operated without coins. The communication system shall be available to users of the spa whenever the spa is open. If the emergency communication system is not located within the spa enclosure, management shall post a sign(s) indicating the location of the emergency telephone. Instructions for emergency use of the telephone shall be posted near the telephone.

e. Water level. Water level shall be maintained at the skimming level.

f. Fully submerged outlets. Each fully submerged outlet shall be designed to prevent user entrapment. A spa shall be closed if the cover/grate of a fully submerged outlet is missing or broken.

(1) For a spa constructed prior to May 13, 1998, each pump that draws water directly from a fully submerged outlet shall be connected to two or more outlets or a single outlet with an area of at least 144 in².

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for at least five years from the certification date.

(3) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet does not have a cover/grate that complies with the ASME standard.

If a spa has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the spa is considered to have a single fully submerged outlet.

(4) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002, "Manufactured Safety Vacuum Release Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub, and Wading Pool Suction Systems," by a listing agency approved by the department; or another vacuum release system approved by the department.

1. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS shall be installed in accordance with the manufacturer's instructions.

3. An SVRS shall be tested for proper function at the frequency recommended by the manufacturer, but at least once in each month the spa is operated. The date and result of each test shall be recorded.

(5) In lieu of compliance with subparagraphs (2), (3) and (4) above, a fully submerged outlet in a spa may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval. The management of the spa shall submit to the department information including, but not necessarily limited to:

1. The area and volume of the spa;

2. Detailed information about the inlet system, including the location of the inlets and the type of inlet fitting;

3. The number of skimmers and pipe sizes;

4. Pump information and flow rates for the outlet system; and

5. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve shall be closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved by the department. The outlet may be physically disconnected from the pump system at the option of the facility management.

g. Spa walls and floor shall be smooth and easily cleanable.

h. Decks.

(1) The deck shall have a slip-resistant surface.

(2) The deck shall be clean and free of debris.

(3) A hose bib shall be provided for flushing or cleaning of the deck.

(4) Glass objects, other than eyeglasses and safety glass doors and partitions, shall not be permitted on the deck.

i. There shall be no underwater or overhead projections or obstructions which would endanger user safety or interfere with proper spa operation.

j. Electrical.

(1) Each electrical outlet in the deck, shower room, and pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker. Ground fault circuit interrupter receptacles and breakers shall be tested at least once in each month the spa is operating. Test dates and results shall be recorded in the spa records.

(2) There shall be no outlets located on, or within 5 ft of, the inside wall of a spa.

(3) An air switch within reach of persons in the spa and its connecting tube shall be constructed of materials that do not conduct electricity.

(4) Lighting.

1. Artificial lighting shall be provided at all spas which are to be used at night or which do not have adequate natural lighting so all portions of the spa, including the bottom and main drain, may be readily seen.

2. Underwater lights and fixtures shall be designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit shall be equipped with a GFCI. When underwater lights need to be repaired, the electricity shall be shut off until repairs are completed.

3. No electrical wiring shall extend over an outdoor spa.

k. Fencing.

(1) A spa shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure shall be constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes. When closed, gates and doors shall comply with the requirements of (2) above. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the spa is open, gates and doors shall be self-closing and self-latching.

(4) If there are sleeping rooms, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the spa area, the spa shall be enclosed by a barrier at least 3 ft high. No opening in the barrier shall permit the passage of a 4-inch sphere. The barrier shall not be easily climbable by toddlers. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the spa is open, gates and doors provided shall be self-closing and self-latching.

l. Agitation system control. The agitation system control shall be installed out of the reach of persons in the spa. The “on” cycle for the agitation system shall be no more than ten minutes.

15.51(5) Management, notification, and records.

a. *Certified operator required.* Each spa facility shall employ a certified operator. One certified operator may be responsible for a maximum of three facilities.

b. *Spa rules sign.* A “Spa Rules” sign shall be posted near the spa. The sign shall include the following stipulations:

(1) Persons with a medical condition, including pregnancy, should not use the spa without first consulting with a physician.

(2) Anyone having a contagious disease shall not use the spa.

(3) Persons shall not use the spa immediately following exercise or while under the influence of alcohol, narcotics, or other drugs.

(4) Persons shall not use the spa alone or without supervision.

(5) Children shall be accompanied by an adult.

(6) Persons shall not use the spa longer than ten minutes.

(7) No one shall dive or jump into the spa.

(8) The maximum patron load of the spa. (The maximum patron load of a spa is one individual per 2 lineal ft of inner edge of seat or bench.)

c. *Spa depth.* The maximum depth of a spa shall be posted at a conspicuous location near the spa in numerals or letters at least 3 inches high.

d. *Glass prohibited.* Glass objects other than eyeglasses, safety glass doors, and partitions shall not be permitted in a spa enclosure.

e. *Operational records.* The operator of a spa shall have the spa operational records for the previous 12 months at the facility and shall make these records available when requested by a swimming pool/spa inspector. These records shall contain a day-by-day account of spa operation, including:

- (1) ORP and pH readings, results of pH, free chlorine or total bromine residual, cyanuric acid (if used), combined chlorine, total alkalinity, and calcium hardness tests, and any other chemical test results.
- (2) Results of microbiological analyses.
- (3) Water temperature measurements.
- (4) Reports of complaints, accidents, injuries, or illnesses.
- (5) Dates and quantities of chemical additions, including resupply of chemical feed systems.
- (6) Dates when filters were backwashed or cleaned or a filter cartridge(s) was changed.
- (7) Draining and cleaning of spa.
- (8) Dates when ground fault circuit interrupter receptacles or circuit breakers were tested.
- (9) Dates of review of material safety data sheets.
- (10) If applicable, dates and results of tests of each SVRS installed at a facility.

f. Submission of records. An inspection agency may require facility management to submit copies of readings of ORP and pH, chemical test results and microbiological analyses to the inspection agency on a monthly basis. The inspection agency shall notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility management shall submit the required reports to the inspection agency within 10 days after the end of each month of operation.

g. Operations manual. A permanent manual for operation of a spa shall be at the facility. The manual shall include instructions for routine operations at the spa including, but not necessarily limited to:

- (1) Maintaining the chemical supply for the chemical feed systems.
- (2) Filter backwash or cleaning.
- (3) Water testing procedures, including the required frequency of testing.
- (4) Procedures for draining, cleaning and refilling the spa, including chemical adjustments and controller adjustments.
- (5) Controller sensor maintenance, where applicable.
- (6) Superchlorination.

h. Schematic drawing. A schematic drawing of the spa recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the spa piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

i. Material safety data sheets. Copies of material safety data sheets (MSDS) for the chemicals used at the spa shall be kept at the facility in a location known and readily accessible to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the MSDS at least annually. The facility management shall retain records of the MSDS reviews at the facility and shall make the records available upon request by a swimming pool inspector.

j. Emergency plans. A written emergency plan shall be provided. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, hyperthermia, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded. The written emergency plan shall be kept at the facility and shall be available to a swimming pool inspector upon request.

k. Temporary spas.

- (1) A person offering temporary spas for rent shall be a certified operator.
- (2) Records of temporary spas shall be maintained for one year which identify the location of all installations.
- (3) Written operational instructions shall be provided to individuals operating or leasing a spa. The instructions shall be consistent with this chapter and provide guidance in the following areas:
 1. Acceptable sources of water supply and procedure for cross-connection control—15.51(1) “g.”
 2. Methods for routine cleaning and superchlorination—15.51(3) “b.”
 3. Procedures for maintaining prescribed levels of disinfectant residual, pH, total alkalinity, clarity, and microbiological quality, and using the test kit—15.51(2) “a” to 15.51(2) “f.”

4. Procedures for maintaining temperature and operation of temperature controls—15.51(4) “c. ”
5. Warning to prevent electrical hazards—15.51(4) “j. ”
6. Procedures for operation of filters, including backwashing—15.51(1) “a. ”
7. A warning to the renter that the renter should prevent unauthorized or accidental access to a spa when it contains water.

15.51(6) Reports. Spa operators shall report to the local inspection agency, within one working day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury which renders a person unconscious or requires immediate medical attention.

[ARC 7839B, IAB 6/3/09, effective 7/8/09]

641—15.52(135I) Construction and reconstruction. A spa constructed or reconstructed after May 4, 2005, shall comply with the following standards. Nothing in these rules is intended to exempt spas and associated structures from any applicable federal, state or local laws, rules or ordinances. Applicable requirements include, but are not limited to, the handicapped access and energy requirements of the state building code, the fire and life safety requirements of the state fire marshal, the rules of the department of workforce development, and the rules of the department of natural resources.

15.52(1) Construction permits.

a. Permit required. No spa shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless a written extension is granted by the department.

b. Permit application. The owner of a proposed or existing spa or a designated representative of the owner shall apply for a construction permit on forms provided by the department. The application shall be submitted to the department at least 15 days prior to construction of a new spa or the reconstruction of a spa.

c. Plan submission. Three sets of plans and specifications shall be submitted with the application. A nonrefundable plan review fee shall be remitted with the application for each spa as required in 15.12(4).

d. Notification of completion. The owner of a newly constructed or reconstructed facility or the owner's designated representative shall notify the department in writing at least 15 business days prior to opening the spa.

15.52(2) Plans and specifications.

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa.

(1) This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both.

(2) If the requirement for engineering plans is waived, the owner of the spa assumes full responsibility for ensuring that the construction or reconstruction complies with these rules and with any other applicable federal, state and local laws, rules, and ordinances.

b. Content of plans. Plans and specifications shall contain sufficient information to demonstrate to the department that the proposed spa will meet the requirements of this chapter. The information shall include, but may not be limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a contractor applies for a construction permit, the name, address and telephone number of the contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the spa in relation to buildings, streets, any swimming pool within the same general area, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the spa and its appurtenances, including a plan view and cross sections at a scale of ¼ inch per foot or larger. The location of inlets, overflow system components,

main drains, deck and deck drainage, the location and size of spa piping, and the spa steps and handrails shall be shown.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, and heaters, and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply and drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the spa, for the spa equipment and for the spa appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval shall be made without prior approval of the department.

15.52(3) General design.

a. Materials. A spa shall be constructed of materials which are inert, stable, nontoxic, watertight, and durable.

b. Water depth. The maximum water depth for a general use spa shall not exceed 4 ft measured from the overflow level of the spa. The maximum depth of any seat or sitting bench shall not exceed 2 ft measured from the overflow level. A special-use spa may be deeper than 4 ft with written approval from the department.

c. Structural loading. A spa shall be designed and constructed to withstand anticipated structural loading for both full and empty conditions.

d. Distance from a swimming pool. A spa may be immediately adjacent to a swimming pool, or a minimum of 4 ft from a Class B swimming pool or 6 ft from a Class A swimming pool. The distance shall be measured from the outside edge of a ladder support or handrail on the deck, a lifeguard stand, a swimming pool slide, or a similar obstruction.

e. Water supply. The water supplied to a spa shall be from a source meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a spa shall be discharged to the spa system through an air gap or a reduced-pressure principle backflow device complying with the requirements of AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

f. Sewer separation required. No part of a spa recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

g. Operations manual. The owner shall require that a permanent manual for operation of a spa be provided. The manual shall include, but may not be limited to:

(1) Instructions for routine operations at the spa including, but not necessarily limited to:

1. Filter backwash or cleaning.
2. Maintaining the chemical supply for the chemical feed systems.
3. Vacuuming and cleaning the spa.
4. Spa water testing procedures, including the frequency of testing.
5. Superchlorination.

6. Controller sensor maintenance and calibration, including the recommended frequency of maintenance.

(2) For each centrifugal pump, a pump performance curve plotted on an 8½" × 11" or larger sheet.

(3) For each chemical feeder, the maximum rated output listed in weight per time or volume per time units.

(4) Basic operating and maintenance instructions for spa equipment that requires cleaning, adjustment, lubrication, or parts replacement, with recommended maintenance frequencies or the parameters that would indicate a need for maintenance.

h. A schematic drawing of the spa recirculation system shall be posted in the spa filter room or shall be included in the operations manual. Clear labeling of the spa piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

i. A permanent file containing the operations and maintenance manuals for the equipment installed at the spa shall be established. The file shall include a source for parts or maintenance for the equipment at the spa. The file may be located in a location other than the facility, but the file shall be readily available to the facility management and maintenance staff.

15.52(4) Decks. A spa shall have a deck around at least 50 percent of the spa perimeter. The deck shall be at least 4 ft wide.

a. Deck materials. The deck shall be constructed of stable, nontoxic, and durable materials.

b. Deck drainage. The deck shall drain away from the spa at a slope of at least 1/8 inch/ft, but no more than 1/2 inch/ft to deck drains or to the surrounding ground surface. The deck shall be constructed to eliminate standing water.

c. Deck surface. The deck shall be provided with a slip-resistant, durable, and cleanable surface.

d. Deck covering. A deck covering may be used provided that:

(1) The covering allows drainage so that the covering and the deck do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

e. Steps or ramp required. When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp shall be provided to the top of the spa. Stairs or a ramp shall be designed in accordance with the state building code or the building code adopted by the jurisdiction in which the spa is located.

15.52(5) Recirculation.

a. Separate recirculation required. A spa shall have a recirculation system separate from another spa or any swimming pool.

b. Recirculation flow rate. The recirculation system shall be capable of processing one spa volume of water within 30 minutes. For spas with skimmers, the recirculation flow rate shall be at least 3.8 gpm per lineal inch of skimmer weir or the flow rate required above, whichever is greater.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) shall supply the recirculation flow rate required by 15.52(5) "b" at a TDH of at least that given in "1," "2" or "3" below, unless a lower TDH is shown by the designer to be hydraulically appropriate. A valve for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or

2. 60 feet for pressure sand filters; or

3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) A separate pump or pumps shall be provided for the spa agitation system.

(3) For sand filter systems, the pump and filter system shall be designed so that each filter can be backwashed at a rate of at least 15 gpm/ft² of filter area.

(4) If a pump is located at an elevation higher than the spa water surface, it shall be self-priming or the piping shall be arranged to prevent the loss of pump prime when the pump is stopped.

(5) Where a vacuum filter is used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 in Hg.

(6) A compound vacuum-pressure gauge shall be installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump discharge line as close to the pump as practical. Gauges shall be of such a size and located so that they may be easily read by the operator.

(7) On pressure filter systems, a hair and lint strainer shall be installed on the suction side of the recirculation pump. The hair and lint strainer basket shall be readily accessible for cleaning, changing, or inspection. A spare strainer basket shall be provided. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Spa water heater.

(1) A heating coil, pipe or steam hose shall not be installed in a spa.

(2) Gas-fired spa water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. The data plate of the heater shall bear the AGA mark.

(3) Electric spa water heaters shall comply with the requirements of UL 1261 and shall bear the UL mark.

(4) A spa water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) shall have a water heating vessel constructed in accordance with ASME Boiler Code, Section 8. The data plate of the heater shall bear the ASME mark.

(5) A thermometer shall be installed in the piping to measure the temperature of the water returning to the spa. The thermometer shall be located so that it may be read easily by an operator.

(6) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(7) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(8) Fuel-burning water heaters shall be equipped with a pressure relief valve sized for the energy capacity of the heater.

e. Flow meters.

(1) Each spa recirculation system shall be provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) A flow meter shall be accurate within 5 percent of the actual flow rate between ± 20 percent of the recirculation flow rate specified in 15.52(5) “b” or the nominal recirculation flow rate specified by the designer.

(3) A flow meter shall be installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.52(5) “e”(2). The flow meter shall be installed so that it may be easily read by the facility staff, or a remote readout of the flow rate shall be installed where it may be easily read by the staff. The designer may be required to provide documentation that the installation meets the requirements of subparagraph (2).

15.52(6) Filtration. A filter shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

a. Pressure gauges. Each pressure filter shall have a pressure gauge on the inlet side. Gauges shall be of such a size and located so that they may be read easily by the operator. A differential pressure gauge which gives the difference in pressure between the inlet and outlet of the filter may be used in place of a pressure gauge.

b. Air relief valves. An air relief valve shall be provided for each pressure filter.

c. Backwash water visible. Backwash water from a pressure filter shall discharge through an observable free fall, or a sight glass shall be installed in the backwash discharge line.

d. Backwash water discharge. Backwash water shall be discharged indirectly to a sanitary sewer or another point of discharge approved by the department of natural resources.

e. Rapid sand filter.

(1) The filtration rate shall not exceed 3 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

f. High-rate sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) If more than one filter tank is served by a pump, the designer shall demonstrate that backwash flow rate to each filter tank meets the requirements of subparagraph (2), or an isolation valve shall be installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) An equalization screen shall be provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system shall have an automatic air-purging cycle.

h. Sand filter media shall comply with the filter manufacturer's specifications.

i. Diatomaceous earth filters.

(1) The filtration rate shall not be greater than 1.5 gpm/ft² of effective filter area except that a maximum filtration rate of 2.0 gpm/ft² may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems shall have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth shall be discharged to a sanitary sewer or other point of discharge approved by the department of natural resources. The discharge may be subject to the requirements of the local waste water utility.

j. Cartridge filters.

(1) The filtration rate shall not exceed 0.38 gpm/ft².

(2) A duplicate set of cartridges shall be provided.

k. Other filter systems may be used if approved by the department.

15.52(7) Piping.

a. *Piping standards.* Spa piping shall conform to applicable nationally recognized standards and shall be specified for use within the limitations of the manufacturer's specifications. Spa piping shall comply with the applicable requirements of NSF/ANSI Standard 61, "Drinking Water System Components—Health Effects." Plastic pipe shall comply with the requirements of NSF/ANSI Standard 14, "Plastic Piping Components and Related Materials," for potable water pipe.

b. *Pipe sizing.* Spa recirculation piping shall be sized so that water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow.

c. *Skimmer pipe capacity.* The piping for the skimmer system shall be designed to convey 100 percent of the recirculation flow rate.

d. *Main drain pipe capacity.* The main drain piping shall be designed to convey 100 percent of the recirculation flow rate. If the spa agitation system uses the same suction piping as the recirculation system, the piping shall be designed for the combined flow within the requirements of paragraph "b" above.

e. *Separate piping required.* The piping from the spa agitation system pump to the spa shall be separate from the recirculation system piping.

15.52(8) Inlets.

a. Wall inlets shall be provided for a spa.

b. The inlets shall be adequate in design, number, location, and spacing to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the spa. At least two recirculation inlets shall be provided.

(1) Inlets shall be located at least 6 inches below the design water surface.

(2) Inlets shall be directional flow-type inlets. Each inlet shall have a fitting with an opening of 1 inch diameter or less.

c. Each agitation system opening shall have a fitting with an opening of 1 inch diameter or less.

15.52(9) Skimmers. A recessed automatic surface skimmer shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50, except that an equalizer is not required for a skimmer installed in a spa equipped with an automatic water level maintenance device.

a. Skimmers required. A spa shall have at least one skimmer for each 100 ft² of surface area or fraction thereof.

b. Flow-through skimmers. Each skimmer shall be designed for a flow-through rate of at least 3.8 gpm per lineal inch of weir. The combined capacity of all skimmers in a spa shall not be less than the total recirculation rate.

c. Skimmer weirs. Skimmers shall have weirs that adjust automatically to variations in water level of at least 4 inches.

d. Flow control. Skimmers shall be equipped with a device to control flow through the skimmer.

e. Equalizers. If a spa is not equipped with an automatic water level maintenance device, each skimmer shall have an operational equalizer. The equalizer opening in the spa shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of the ASME standard.

f. The skimmer(s) shall not be connected to the agitation system.

15.52(10) Main drain system. Each spa shall have a convenient means of draining the water from the spa for service. Spa main drains may be on the sidewall of a spa near the spa bottom.

a. Suction outlets. If a spa pump is directly connected to a main drain or another fully submerged outlet, the pump shall be connected to two or more fully submerged outlets or to a single fully submerged outlet that is unblockable. The recirculation system and the agitation system may use the same fully submerged outlet(s).

(1) Two fully submerged outlets that are directly connected to one or more pumps in the same outlet system shall be at least 3 ft apart on center or on different spa surfaces. If three or more fully submerged outlets that are all directly connected to one or more pumps in the same outlet system are installed, the distance between the outlets farthest apart shall be at least 3 ft on center or the outlets shall be installed on different spa surfaces.

(2) If there is only one fully submerged outlet in an outlet system, the flow rating of the outlet cover/grate, sump and the associated piping shall be at least 100 percent of the maximum system flow rate. If two or more fully submerged outlets are installed in an outlet system, the combined flow rating of the cover/grates, the sumps and the associated piping shall be at least 200 percent of the maximum system flow rate. Multiple outlets in an outlet system shall be plumbed in parallel.

The maximum system flow rate for the recirculation system is the flow rate specified in 15.52(5) "b" or the design flow rate, whichever is greater. The maximum system flow rate for the agitation system is the specified design flow rate. If a flow rate is not specified, the maximum system flow rate shall be the flow capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

b. Control valve. If a main drain is connected to the recirculation system, there shall be a control valve to adjust the flow between the main drain and the overflow system.

c. Main drain covers. Each main drain or other fully submerged outlet shall be covered with a cover/grate that is listed as complying with the requirements of the ASME standard by a listing agency approved by the department. A listed cover/grate shall be used in accordance with its listing.

(1) The flow rating for the cover/grate(s) shall comply with 15.52(10) "a"(2).

(2) The mark of a listing agency acceptable to the department shall be permanently marked on the top surface of each manufactured cover/grate.

(3) Field fabricated cover/grates shall be certified for compliance to the ASME standard by a professional engineer licensed in Iowa. A certificate of compliance shall be provided to the spa owner and to the department.

(4) The fully submerged outlet cover/grate shall be designed to be securely fastened to the spa so that the cover/grate is not removable without tools.

d. For outlet systems with manufactured sumps, the sumps shall be listed by a listing agency acceptable to the department for compliance with the ASME standard. Field fabricated sumps shall be designed in accordance with the ASME standard and shall be certified by an engineer licensed in Iowa.

15.52(11) Disinfection and pH control.

a. Controller required. A spa recirculation system shall be equipped with an automatic controller for maintenance of the disinfectant level and pH in the spa water. The control output of the controller to

the chemical feed systems shall be based on the continuous measurement of the ORP and the pH of the water in the spa recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor shall be installed for an indoor spa after May 4, 2005.

c. Disinfection system. A continuous feed disinfectant system shall be provided. The disinfectant feed system shall have the capacity to supply at least 10 mg/L chlorine or bromine based on the recirculation flow rate required in 15.52(5) “*b.*”

d. Disinfection feeder listing. A disinfectant feeder shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50.

e. Gas chlorine shall not be used as a disinfectant for a spa.

f. Solution feed. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container shall have a capacity of at least one day’s supply at the rate specified in 15.52(11) “*c.*”

g. Erosion chlorine feeders. The storage capacity of an erosion feeder shall be at least one day’s supply of disinfectant at the rate specified in 15.52(11) “*c.*”

h. pH chemical system. Each spa shall have a metering pump for the addition of a pH control chemical to the spa recirculation system, or a carbon dioxide (CO₂) gas feed system. A metering pump shall be listed by NSF or another listing agency approved by the department as complying with the requirements of Standard 50.

i. Chemical feed stop. The chemical feed systems shall be designed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

j. Test equipment. Test equipment complying with the following requirements shall be provided.

(1) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm over the full range.

(2) The test equipment shall provide for the measurement of spa water pH from 7.0 to 8.0 with at least five increments in that range.

(3) The test equipment shall provide for the measurement of total alkalinity and calcium hardness with increments of 10 ppm or less.

(4) The test equipment shall provide for the measurement of cyanuric acid from 30 to 100 ppm. This requirement may be waived for a facility that does not use cyanuric acid or a stabilized chlorine disinfectant.

15.52(12) Safety.

a. Spa entry. A spa shall have at least one stairway, ramp, ladder, or set of recessed steps designating a point of entry and exit for every 50 ft of perimeter or fraction thereof.

(1) Stair steps leading into a spa shall be at least 12 inches wide, the tread depth shall be no less than 10 inches, and the riser height shall be no more than 12 inches. If a bench or seat is used as a part of the stair, the first riser height from the bottom of the spa to the seat or bench shall be no more than 14 inches. Except for the first riser, the riser height shall be uniform.

1. Stair steps shall be provided with a slip-resistant surface.

2. The stair steps shall be provided with two handrails or grab rails, one on each side of the steps.

(2) Ladders.

1. Ladders shall be provided with a handrail which extends from below the water surface to the top surface of the deck on each side of the ladder.

2. Ladders shall be of a color contrasting with the spa walls.

(3) Recessed steps.

1. Recessed steps shall have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.

2. Recessed steps shall be provided with a handrail or with deck-level grab rails on each side of the recessed steps.

3. Recessed steps shall drain to the spa.

(4) Handrails and grab rails.

1. Ladders, handrails, and grab rails shall be designed to be securely anchored and so that tools are required for their removal.

2. Ladders, handrails, and grab rails shall be of corrosion-resistant materials, or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

b. Agitation system control. The agitation system start control shall be installed out of the reach of persons in the spa. The “on” cycle for the agitation system shall be no more than ten minutes.

c. Electrical. New construction or reconstruction shall comply with the requirements of the National Electrical Code, 70-2005, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

d. Lighting. Artificial lighting shall be provided at indoor spas and at outdoor spas which are to be used after sunset, in accordance with the following:

(1) Underwater lighting of at least 60 lamp lumens/ft² or 0.5 watts/ft² of water surface area and area lighting of at least 10 lumens/ft² or 0.6 watts/ft² of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 lumens/ft² or 2.0 watts/ft² of spa water surface area shall be provided.

e. Spa enclosure.

(1) A spa shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure shall be constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from the outside of the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes. When closed, gates and doors shall comply with the requirements of (2) above. Gates and doors shall be lockable. Except where lifeguard or structured program supervision is provided whenever the spa is open, gates and doors shall be self-closing and self-latching.

(4) For indoor spas, if there are sleeping rooms, apartments, condominiums, or permanent recreation areas used by children which open directly into the spa area, the spa shall be enclosed by a barrier at least 3 ft high. No opening in the barrier shall permit the passage of a 4-inch sphere. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the spa is open, gates or doors shall be self-closing and self-latching.

[ARC 7839B, IAB 6/3/09, effective 7/8/09]

These rules are intended to implement Iowa Code chapter 135I.

[Filed prior to 7/1/52]

[Filed emergency 7/11/86 after Notice 6/4/86—published 7/30/86, effective 7/11/86]

[Filed emergency 5/15/87 after Notice 3/25/87—published 6/3/87, effective 5/15/87]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 1/12/90, Notices 11/1/89⁰—published 2/7/90, effective 3/14/90]

[Filed 1/15/93, Notice 10/14/92—published 2/3/93, effective 3/10/93]

[Filed emergency 3/10/93—published 3/31/93, effective 3/10/93]

[Filed emergency 7/16/93—published 8/4/93, effective 7/16/93]

[Filed 3/18/98, Notice 1/28/98—published 4/8/98, effective 5/13/98]

[Filed 9/17/99, Notice 6/16/99—published 10/6/99, effective 11/10/99]

[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]

[Filed 1/10/08, Notice 11/21/07—published 1/30/08, effective 3/5/08]

[Filed ARC 7839B (Notice ARC 7675B, IAB 4/8/09), IAB 6/3/09, effective 7/8/09]

[Filed ARC 2279C (Notice ARC 2148C, IAB 9/16/15), IAB 12/9/15, effective 1/13/16]

◊ Two or more ARCs

CHAPTER 95
VITAL RECORDS: GENERAL ADMINISTRATION
[Prior to 12/12/12, see [641] Ch 96, 98.1, Chs 103, 104]

641—95.1(144) Definitions. For the purpose of 641—Chapters 95 to 100, the following definitions shall apply:

“Administrative costs” means costs for the registration, collection, preservation, modification and certification of records, including but not limited to costs related to copying, regular mailing, searching, staffing, and maintenance of systems.

“Advanced registered nurse practitioner” or *“ARNP”* means an individual licensed pursuant to Iowa Code chapter 152.

“Age of majority” means the chronological moment when a child legally assumes majority control over the child’s own person and actions and decisions, thereby terminating the legal control and legal responsibilities of the child’s parents over and for the child. The period of minority extends to the age of 18 years, but every minor attains majority by marriage.

“Amendment” means a change made by the state registrar upon request from an entitled person as described in 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge one year or more after the event.

“Birth center” means a facility or institution, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

“Birthing institution” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

“Burial-transit permit” means a permit which is required to assume custody of a dead body or fetus pursuant to Iowa Code section 144.32.

“Certificate” means the written or electronic legal document containing the facts of an event; also used interchangeably with the term “record.”

“Certificate of birth resulting in stillbirth,” pursuant to Iowa Code section 144.31A, means a noncertified copy issued based upon a properly filed fetal death certificate to record the birth of a stillborn fetus.

“Certified copy” means an official copy of a registered vital record that is authenticated by the state registrar or county registrar. A certified copy contains a statement certifying the facts are true and accurate as recorded, is printed on security paper, and has authentication seals and signatures. A certified copy excludes all entries indicated as confidential or for statistical information.

“Commemorative certificate,” pursuant to Iowa Code section 144.45A, means a commemorative abstract of an Iowa birth or marriage record that has been properly filed.

“Competent and disinterested person” means an individual of legal age who is acquainted with both applicants who plan to marry.

“Confidential information” means data or information that is on a vital record, is not considered public information, and is restricted as to its release pursuant to Iowa Code chapter 144 or other provision of federal or state law.

“Correction” means a change made by the state registrar upon observation, upon query, or upon request from an entitled person as described in 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge within one year and prior to the first anniversary of the event.

“County registrar” means the county recorder with the authority to record vital records and issue certified copies. The county registrar operates under the state vital records laws and rules and the guidance of the state registrar pursuant to Iowa Code sections 144.5 and 144.9. Pursuant to Iowa Code section 331.601(4), if the office of the county recorder has been abolished, “county registrar” means the office to which the duties are assigned by the county board of supervisors.

“County resident copy” means a properly filed, clearly marked working copy of a decedent’s death certificate which is sent to and recorded by the county registrar of the county of the decedent’s residence in the event the death occurred outside the county of the decedent’s residence.

“Court of competent jurisdiction” means the appropriate court for the type of action. When used to refer to inspection of an original certificate of birth based upon an adoption, “court of competent jurisdiction” means the court in which the adoption was ordered.

“Custody” means guardianship or control of vital records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified. The state registrar shall not transfer legal custody of vital records to another agency for purposes of granting public access until all the records have been purged of all confidential information.

“Day” means calendar day.

“Dead human body” means a lifeless human body or parts or bones of a body, if, from the state of the body, parts, or bones, it may reasonably be concluded that death recently occurred.

“Death” means the condition as defined in Iowa Code section 702.8.

“Declaration of paternity registry” means a registry for a putative father to declare paternity pursuant to Iowa Code section 144.12A. The declaration does not constitute an affidavit of paternity filed pursuant to Iowa Code section 252A.3A.

“Delayed birth record” means the registration of a live birth event occurring in Iowa one or more years after the date of birth which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Delayed death record” means the registration of a death event occurring in Iowa one or more years after the date of death which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Delayed marriage record” means the registration of a marriage event occurring in Iowa one or more years after the event which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Department” means the Iowa department of public health.

“Disinterment permit” means a permit which allows the removal of a dead human body or fetus from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“Electronic access” means authority given by the state registrar to a county registrar to access electronic vital records through the electronic statewide vital records system for purposes of retrieving information. The state registrar shall provide guidelines for electronic access and the retrieval of information from the electronic statewide vital records system.

“Electronic statewide vital records system” means the combined vital records system for registration of birth records, registration of death records, issuance of certified copies of vital records by the state registrar and county registrar, and fee accounting.

“Emancipated minor” means a person younger than 18 years of age who has obtained the age of majority by court order.

“Fetal death” means a death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which is not an induced termination of pregnancy. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles. In determining a fetal death, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

“Filing” means the presentation of a certificate, report, or other record of a live birth, death, fetal death, adoption, marriage, dissolution, or annulment for registration pursuant to Iowa Code chapter 144.

“Final disposition” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“Foundling” means a living infant of unknown parentage whose place of birth is where the infant is found and whose date of birth shall be determined by approximation.

“Funeral director” means a person licensed in Iowa to practice mortuary science pursuant to Iowa Code chapter 156.

“Gestational surrogate arrangement” or *“surrogate mother arrangement,”* as defined in Iowa Code section 710.11, means an arrangement whereby a female agrees to be artificially inseminated with the sperm of a donor, to bear a child, and to relinquish all rights regarding that child to the donor or donor couple.

“Health care provider” means an individual licensed under Iowa Code chapter 148, 148C, 148D, or 152 or any individual who provides medical services under the authorization of the licensee.

“Induced termination of pregnancy” means the use of any means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus as defined in Iowa Code section 144.29A(8).

“Institution” means a facility as defined in Iowa Code section 144.1(10), including “hospital” as defined in Iowa Code section 135B.1(3) but not including “birth center” as defined in Iowa Code section 135.61(2).

“Institutional health facility” means a hospital as defined in Iowa Code section 135B.1, including a facility providing medical or health services that is open 24 hours per day, seven days per week and that is a hospital emergency room or a health care facility as defined in Iowa Code section 135C.1.

“Jurisdiction” means the state or county to which legal authority for the system of vital statistics has been granted by statute.

“Last name” means surname.

“Lineal consanguinity” means the existence of a line of descent in which one person is descended in a direct lineal relationship to another: as between the registrant and the registrant’s parent, grandparent, great-grandparent, and so upward, in the direct ascending line; or between the registrant and the registrant’s child, grandchild, great-grandchild and so downward in the direct descending line; or any siblings of the registrant.

“Live birth” means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In determining a live birth, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

“Marriage license valid date” means the day on which the marriage license becomes valid and on or after which the parties are authorized to marry. When the marriage license valid date is computed, the date of application shall be excluded. The marriage license shall become valid after the expiration of three calendar days after the date of application, unless earlier validated by a court of competent jurisdiction.

“Medical certification” means a statement which attests that the medical information reported on the certificate of death or fetal death is accurate to the best of the medical certifier’s knowledge.

“Medical certifier” means an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner who attests that the death event has taken place and who determines the cause and manner of death.

“Medical examiner” means the medical legal officer who makes the determination of the cause of death in nonroutine deaths such as non-natural, sudden, or unattended deaths or other deaths which affect the public interest.

“Modification” means any change made to a record that has been accepted and registered, such as a correction, an amendment, a change after adoption or paternity determination, or any other change.

“Mutual consent voluntary adoption registry” means a registry which authorizes adult adopted children, adult siblings, and the biological parents of adult adoptees to register to obtain identifying birth information.

“Natural cause of death” means a death due to a disease or the aging process and not due to external causes.

“Newborn safe haven registration” means the registration of the birth of a living infant of unknown parentage who has been abandoned or left at some unknown time after birth in a location other than the place of delivery.

“Non-birthing institution” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that does not have a licensed obstetric unit or is not licensed to provide obstetric services but may provide obstetric services on an emergency basis.

“Non-institution birth” means a live birth that occurs outside of an institution and not en route to an institution.

“Non-natural cause of death,” pursuant to Iowa Code section 144.28(1)“a,” means the death is a direct or indirect result of physical, chemical, thermal, or electrical trauma, or drug or alcohol intoxication or other poisoning.

“Notification of record search” means the document issued to the applicant when the record requested cannot be located through a search of registered records. The document contains a certification statement, is printed on security paper, and has authentication seals and signatures.

“Officiant” means (1) a judge of the Iowa supreme court, court of appeals, or district court, including a district associate judge, an associate juvenile judge, or a judicial magistrate, and including a senior judge as defined in Iowa Code section 602.9202(3), or (2) a person ordained or designated as a leader of the person’s religious faith.

“Physician” means an individual licensed pursuant to Iowa Code chapter 148.

“Physician assistant” means an individual licensed pursuant to Iowa Code chapter 148C.

“Presumptive death” means a death event presumed to have occurred in Iowa where no human body is found and a court of competent jurisdiction has determined the death has occurred.

“Putative father” means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the conception or birth of the child or at any time during the period between the conception and birth of the child.

“Record of death” means the compilation of those entries of a death, whether electronic or paper, which are contained in indexed systems which record the death event occurring in Iowa. “Record of death” shall include the certificate of death.

“Record of fetal death” means the compilation of those entries of a fetal death, whether electronic or paper, which are contained in indexed systems which record a fetal death event occurring in Iowa. “Record of fetal death” shall include the certificate of fetal death.

“Record of foreign born adoption” means the compilation of those entries of a live birth event for a child born in a foreign country and adopted by an Iowa resident. “Record of foreign born adoption” shall include the certificate of foreign birth and shall not constitute U.S. citizenship.

“Record of live birth” means the compilation of those entries of a live birth event, whether electronic or paper, which are contained in indexed systems which record a live birth event occurring in Iowa. “Record of live birth” shall include the certificate of live birth.

“Record of marriage” means the compilation of those entries of a marriage event, whether electronic or paper, which are contained in indexed systems which record a marriage event occurring in Iowa. “Record of marriage” shall include the certificate of marriage.

“Registrant” means the person named on the certificate as the person who was born, died, or was married.

“Registration” means the process by which vital statistics records are completed, filed, and incorporated by the state registrar in the official records.

“Report of dissolution or annulment” means the statistical report of dissolution or annulment, whether electronic or paper, excluding all entries indicated as confidential or for statistical information only.

“Report of termination of pregnancy” means the aggregated compilation of the information received by the department on terminations of pregnancies for each information item listed, with the exception of the report tracking number, the health care provider code, and any set of information for which the number is so small that the confidentiality of any person to whom the information relates may be compromised.

“Research” means the systematic investigation designed primarily to develop or contribute to scientific, medical, public health or psychosocial disciplines and generalized knowledge and not for private gain.

“Sealed” means the removal from inspection of any copy of an original certificate in the custody of the county registrar and the state registrar.

“Security paper” means standardized paper for issuing certified copies of vital record events that meets, at a minimum, national requirements for security features embedded within the paper to deter tampering, counterfeiting, photocopying, or imaging in order to help prevent fraudulent use of the certified copy and prevent identity theft.

“Single parent birth” means any record of live birth for which there is a reference or statement on the certificate or entry which directly indicates “no” regarding “born in wedlock” or “married”; or any record of live birth for which there is reference or statement on the certificate or entry that either parent is “unknown” or “anonymous”; or any certificate or entry which reflects the omission or absence of the name of the father of the child.

“Spontaneous termination of pregnancy” means the occurrence of an unintended termination of pregnancy at any time during the period from conception to 20 weeks’ gestation and is not a spontaneous termination of pregnancy at any time during the period from 20 weeks or greater which is reported to the department as a fetal death under Iowa Code section 144.29.

“Standard birth registration” means a vital record of a live birth event that occurred in Iowa which was submitted and accepted for registration within one year of the event.

“State registrar” means the director of the department or the director’s designee.

“Stillbirth” means an unintended fetal death occurring after a gestation period of 20 completed weeks or more or an unintended fetal death of a fetus with a weight of 350 or more grams.

“System of vital statistics” or *“system”* means the registration, collection, preservation, amendment, and certification of vital statistics records, and activities and records related thereto including the data processing, analysis, and publication of statistical data derived from such records.

“Uncertified copy” means an unofficial copy of a registered vital record which is not printed on security paper and which does not contain any authentication by the issuing jurisdiction. Uncertified copies shall contain an overstamp such as: “Not for Legal Purposes,” “Administrative Use Only,” “Deceased,” “For Genealogical Purposes Only,” “Working Copy,” or any other overstamp as authorized by the state registrar.

“Vital records” means certificates or reports of birth, death, fetal death, marriage, dissolution, annulment, and related data.

“Vital statistics” means data derived from reports, certificates, and records of live birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage or annulment, and data related thereto.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.2(144) Vital records and statistics. There is established a division in the department which shall install, maintain, and operate the system of vital statistics throughout the state. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments shall be maintained in the state or any of its political subdivisions other than the one provided for in Iowa Code chapter 144, including, but not limited to, a system maintained by any agency or private entity.

95.2(1) No person shall prepare or issue any certificate which purports to be an original certified copy or a copy of a certificate of birth, death, fetal death, adoption, marriage, dissolution, or annulment or any subset of the data items taken from a certificate except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(2) A vital record, index, or subset of data shall not be maintained in any other system or manner except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(3) The state registrar and the county registrar shall not maintain or issue copies of any vital record of an event occurring outside the state registrar’s or county registrar’s jurisdiction except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(4) To protect the integrity of vital records and to ensure their proper use, no vital record, index, or subset of data shall be posted to the World Wide Web or published in any other manner except as provided for in Iowa Code chapter 144 and pursuant to subrule 95.10(3) or as authorized by the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.3(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

95.3(1) The forms supplied or approved for reporting vital events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

95.3(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of vital events or the making of copies of vital records.

95.3(3) Security paper used to report vital events shall be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

95.3(4) Security paper shall be used to issue certified copies of Iowa vital records and shall be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.4(144) Information by others.

95.4(1) Any person having knowledge of the facts shall furnish information that the person possesses regarding any birth, death, fetal death, adoption, marriage, dissolution, or annulment, upon demand of the state registrar.

95.4(2) Every person in charge of an institution, or the person's designee, shall maintain a record of personal particulars and data concerning each person admitted or confined to the institution pursuant to Iowa Code section 144.47. This record shall include information required by the standard certificate of birth, death, and fetal death forms issued under the direction of the state registrar. The record shall be made at the time of admission based on the information provided by such person, but when information cannot be obtained from the person, it shall be obtained from the most knowledgeable relative or person acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

95.4(3) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.5(144) Handling of vital records.

95.5(1) State equipment and state vital records shall not be handled or accessed except by the state registrar, the state registrar's employees, or other authorized personnel for administrative purposes.

95.5(2) The county registrar shall provide assistance to the public in accessing vital records designated as public records in the custody of the county registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.6(144) Fees.

95.6(1) *Fees for services provided by state registrar or county registrar.* The following fees shall be charged and remitted for the various services provided by the state registrar or the county registrar.

a. The state registrar or county registrar, as applicable, shall charge a fee of \$20 to conduct a search for a record. On and after July 1, 2019, this fee will revert to \$15.

(1) The search fee shall include one certified copy of the record.

(2) For each additional certified copy of the same record, a \$20 fee shall be charged. On and after July 1, 2019, this fee will revert to \$15.

(3) If, following a search, no record is found and no certified copy is printed, the \$20 fee may be retained. On and after July 1, 2019, this fee will revert to \$15.

b. The state registrar shall charge a fee of \$20 to prepare an adoption certificate, to amend a certificate, to amend a certificate of live birth to reflect a legal change of name, to prepare a delayed certificate, to process other administrative or legal actions, or for the search and preparation of copies of supporting documents on file in the state registrar's office. On and after July 1, 2019, this fee will revert to \$15. No fee shall be charged for establishment of paternity.

c. The state registrar shall charge a fee of \$25 to file a completed application for the mutual consent voluntary adoption registry.

d. The state registrar shall charge a fee of \$5 to update applicant information maintained in the mutual consent voluntary adoption registry and the declaration of paternity registry.

e. The state registrar shall charge a fee of \$20 to amend an abstract or other legal documentation in support of the preparation of a new certificate. On and after July 1, 2019, this fee will revert to \$15.

f. The state registrar shall charge a fee of \$35 to conduct a search for a record for the purpose of issuing a commemorative copy of a certificate of birth or a certificate of marriage pursuant to Iowa Code section 144.45A. Fees collected shall be deposited in the emergency medical services fund established in Iowa Code section 135.25.

g. The state registrar shall charge a fee of \$20 to conduct a search for a certificate of fetal death for the purpose of issuing an uncertified copy of a certificate of birth resulting in stillbirth pursuant to Iowa Code section 144.31A. On and after July 1, 2019, this fee will revert to \$15.

95.6(2) *Overpayments.* Any overpayment of \$5 or less received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department.

95.6(3) *Certified copy of modified vital record.* When an individual is in possession of a previously issued certified copy of a vital record and the original record is subsequently modified, the individual may request and receive a certified copy of the modified record without charge if the certified copy prior to modification is relinquished to the registrar's office that issued the certified copy, unless otherwise directed by the state registrar.

95.6(4) *Search of county registrar's records—fee for uncertified copy.* A person who is requesting an uncertified copy of a record in the custody of the county registrar shall conduct the search of the county files to locate the record. If a copy is requested, the county registrar may charge a fee of no more than \$5 for an uncertified copy of the county record. The fee shall be retained by the county.

95.6(5) *Distribution of fees.*

a. All fees collected by the county registrar and the state registrar shall be distributed as follows:

(1) For fees collected by a county registrar, with the exception of the fee in subrule 95.6(4), the county registrar shall retain \$4 of each \$20 fee collected by that office. On and after July 1, 2019, this \$20 fee will revert to \$15. Fees collected shall be divided as follows:

1. For a birth certificate or a marriage certificate, the state registrar shall receive \$13, and \$3 shall be deposited in the general fund of the state, except for the fee collected pursuant to paragraph 95.6(1) "f." On and after July 1, 2019, the amount received by the state registrar will revert to \$8.

2. For a death certificate, the state registrar shall receive \$11, the office of the state medical examiner shall receive \$3, and \$2 shall be deposited in the general fund of the state. On and after July 1, 2019, the amount received by the state registrar will revert to \$6.

(2) For fees collected by the state registrar, the state registrar shall retain all fees, with the exception of the fees in paragraph 95.6(1) "a," of which the state registrar shall retain \$14 of each \$20 fee collected for the issuance of certified copies. On and after July 1, 2019, the fee collected will revert to \$15 and the amount retained by the state registrar will revert to \$9. The \$6 balance of certified copy fees collected by the state registrar shall be divided as follows:

1. For a birth certificate or a marriage certificate, \$6 shall be deposited in the general fund of the state.

2. For a death certificate, the office of the state medical examiner shall receive \$3, and \$3 shall be deposited in the general fund of the state.

b. All fees retained by the state registrar shall be added to the vital records fund established by the department pursuant to Iowa Code section 144.46A.

c. All fees received by the office of the state medical examiner shall be added to the operating budget established for the operation of that office.

95.6(6) *Fee for search to verify vital statistics record.* A fee shall be charged by the state registrar for each search conducted for the purpose of providing verification of vital statistics data to an agency authorized to receive such data under subrule 95.12(2).

a. The amount of the fee shall be determined in an agreement with the department and shall be dependent on the nature and scope of the project and the resources required to obtain the data requested.

b. The state registrar shall retain the full amount of all fees collected under this subrule in the vital records fund established pursuant to Iowa Code section 144.46A.

95.6(7) *Fee for researcher access to vital statistics data.* A fee shall be charged to each researcher who is provided access to vital statistics data in accordance with Iowa Code section 144.44 and the required agreement executed with the department. The amount of the fee shall be based on the nature and scope of the research project and resources required to obtain the data requested.

a. The state registrar shall allocate the fees for copies of birth, marriage, and death certificates provided to researchers pursuant to the distribution of fees set forth in subrule 95.6(5).

b. The state registrar shall retain in the vital records fund established pursuant to Iowa Code section 144.46A the full amount of fees collected from researchers for searching files or records to create a data file.

95.6(8) *Service member who died while on active duty—waiver of fee.* The certified copy fee for a birth certificate or a death certificate of a service member, as defined in Iowa Code section 29A.90, who died while on active duty shall be waived for a period of one year from the date of death. Application for the certified copy shall be made by an entitled family member as described in 641—95.8(144) of the deceased service member or the entitled family member's legal representative. Documentation shall be submitted at the time of application to substantiate the date of death and active duty status.

95.6(9) *Retention of applications and reports.* An application for a certified copy of a vital record in Iowa shall be retained by the county registrar for a minimum of six months from date of issuance of the certified copy. All financial reports for vital records fees shall be retained by the county registrar for a minimum of three calendar years.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 1074C, IAB 10/2/13, effective 1/1/14; see Delay note at end of chapter; ARC 1402C, IAB 4/2/14, effective 5/7/14; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.7(144) General public access of vital records in the custody of the county registrar. A vital record may be in the custody of the county registrar if the event occurred in that county and the record is not excluded by statute or definition for purposes of confidentiality.

95.7(1) There shall be public access and the right to inspect in person all vital records in the custody of the county registrar after they are purged of confidential information.

95.7(2) Electronic devices, including but not limited to scanners, cameras, tablets, cellular phones or laptops, shall not be used to secure images or copies from county vital records. Laptops or like devices may be allowed only for purposes of typing information into a genealogy software program or electronic document and as directed by the state registrar or county registrar.

95.7(3) Information inspected and copied shall not be published or used to establish an index or record of information at any other location except as authorized by Iowa Code chapter 144.

95.7(4) County registrars may issue uncertified copies of vital records held in the registrars' physical custody or accessible through the electronic statewide vital records system, except those records excluded by statute or at the direction of the state registrar.

a. Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted the applicant's own search for the record at the county registrar's office.

b. Uncertified copies shall be issued on plain white paper and clearly stamped "not for legal purposes." Security paper provided by the state registrar shall not be used to produce records for uncertified copies.

95.7(5) County registrars shall not provide specific information from any vital record via telephone, fax, electronic file, Web site, written letter or verbally, except for administrative purposes with the state vital records office.

95.7(6) County registrars shall not produce lists of vital records for any agency, private business, or member of the general public.

95.7(7) For records available in the electronic statewide vital records system, the state registrar shall send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records. The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22.

95.7(8) For records not available in the electronic statewide vital records system, the state registrar shall send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.8(144) Direct tangible interest in and entitlement to a vital record. Certified copies of vital records may be issued by the state registrar or county registrar upon written application, payment of the required fee pursuant to paragraph 95.6(1) “a,” and demonstration of a verifiable, direct tangible interest and entitlement.

95.8(1) The following persons shall be considered to have a direct tangible interest and entitlement and are authorized to obtain a certified copy of a vital record:

a. The registrant, if the registrant is of legal age, has reached the age of majority, or is an emancipated minor.

b. A member of the registrant’s immediate legal family, including:

- (1) Current spouse or surviving spouse;
- (2) Children;
- (3) Mother or father if listed on the registrant’s birth certificate;
- (4) Sibling, if sibling has reached the age of majority;
- (5) Maternal grandparents, or paternal grandparents if the father is listed on the birth certificate; or
- (6) Step-parent or step-child if:
 1. Legal parent and step-parent are currently married at the time of application; or
 2. Step-parent is the surviving spouse of the legal parent and not remarried.

c. The documented legal representative of the registrant or the registrant’s immediate legal family, including:

- (1) An attorney;
- (2) A court-appointed guardian;
- (3) A foster parent;
- (4) A funeral director, for up to one year following the decedent’s date of death; or
- (5) A legal executor.

d. Other persons who demonstrate a direct tangible interest and entitlement when it is shown that the certified copy is needed to determine or protect a personal or property interest.

95.8(2) The following persons shall not be deemed to have direct tangible interest and entitlement or be authorized to secure vital records:

a. Biological parents of adopted persons in the absence of a court order from the court of competent jurisdiction;

b. Biological family members of adopted persons;

c. Adopted persons requesting biological family records; or

d. Commercial firms or agencies requesting lists of vital record events, or lists of names, or lists of addresses.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.9(144) Search and issuance of a certified copy of a vital record. The search and issuance of a certified copy of a vital record shall be requested from the state registrar or county registrar.

95.9(1) Only entitled applicants as described in rule 641—95.8(144) may submit requests for certified copies of vital records.

95.9(2) A person requesting a search and issuance of a certified copy of a vital record shall provide in writing the following:

- a. The name of the person or persons whose vital record is to be searched;
- b. The purpose of such request;
- c. The relationship to the registrant of the person making the request; and
- d. The notarized signature and the address of the person making the request.

95.9(3) In addition to a completed written application, the applicant shall provide:

- a. A current, legible government-issued photo identification of the applicant making the request or other identification documents acceptable to the state registrar; and
- b. Payment of the required fee before the search is conducted.

95.9(4) The state registrar and county registrar shall have the authority to require additional supporting documents to prove direct tangible interest and entitlement pursuant to rule 641—95.8(144).

95.9(5) If, after the search is conducted, no record is on file and the state registrar or county registrar issues a “notification of record search” on certified paper, the fee for the search may be retained pursuant to paragraph 95.6(1) “a.”

95.9(6) If a certified copy of a vital record is issued and sent to the applicant using a mail service and the applicant does not receive the certified copy, the state registrar or the county registrar may replace the certified copy without an additional fee using an Affidavit of Non-Receipt. The applicant must contact the issuing registrar within 90 days of the date of request. A minimum of 30 days must have elapsed from the time the certified copy was mailed. The applicant shall read the instructions, complete the Affidavit of Non-Receipt and have the applicant’s signature notarized. The original Affidavit of Non-Receipt and a photocopy of the applicant’s driver’s license must be reviewed by the issuing registrar before the certified copy can be replaced for no additional fee. The state registrar or county registrar may refuse any Affidavit of Non-Receipt when the state registrar or county registrar determines proof of receipt, fraud or misrepresentation. The state registrar shall give to the registrant a notice in writing of the state registrar’s reason and intention to refuse the Affidavit of Non-Receipt.

95.9(7) If printed from the electronic statewide vital records system by a county registrar, the certified copy of a vital record shall be stamped by the issuing county registrar to reflect the county in which the certified copy was issued.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.10(144) Search and issuance for genealogy or family history. The search and issuance of a vital record for genealogy may be requested from the state registrar or county registrar upon written application and payment of the required fee pursuant to paragraph 95.6(1) “a.”

95.10(1) The county registrar may issue certified copies of a vital record for genealogy or family history to an applicant who can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed.

95.10(2) The county registrar may issue uncertified copies of a vital record for genealogy or family history to any member of the general public except those records excluded by statute or at the direction of the state registrar. Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted a search for the record at the county registrar’s office.

95.10(3) The state registrar may issue uncertified copies of a vital record for genealogy or family history to an applicant who is conducting genealogical research and can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed if the event occurred 125 years ago or more for birth records and 75 years ago or more for marriage and death records.

95.10(4) All copies issued for genealogy or family history shall be clearly marked “for genealogical purposes only.”

95.10(5) No copy shall be issued for genealogy or family history if the registrant is known to be living.

95.10(6) If, after the search is conducted, no record is on file, the state registrar or county registrar shall issue a “notification of record search” on certified paper, and the fee for the search shall be retained pursuant to paragraph 95.6(1) “a.”

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.11(144) Registrars’ responsibility for maintenance of confidentiality.

95.11(1) The state registrar and county registrar shall maintain the confidentiality of the following material, records, and information:

a. Entries indicated as confidential or statistical in nature on the face of the record or otherwise confidential by law;

b. Any record which is ordered sealed by the state registrar or pursuant to a court order.

95.11(2) The county registrar shall take all necessary steps to ensure that confidential information reflected on vital records has been redacted from general public access. If confidential information is included with accessible information, only accessible information shall be made available to the general public for examination.

95.11(3) The county registrar shall employ at a minimum all of the following methods to ensure confidentiality:

a. Permanently cover or remove, by appropriate means, confidential information;

b. Promptly process the notice to seal a record as directed by the state registrar; and

c. Seal and not reproduce confidential information when copies of vital records are made.

95.11(4) The county registrar may charge reasonable administrative costs to reflect the expenses for efforts required to allow general public access, examination and the assurance of confidentiality of this material and information pursuant to the authority of Iowa Code chapter 22.

a. The administrative cost is to be paid by persons who request the services provided by the county registrar, including supervising, copying or providing a suitable place for such work.

b. The county registrar shall retain all administrative costs collected to allow general public access, examination, and the assurance of confidentiality of the vital record and information pursuant to the authority of Iowa Code chapter 22.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.12(144) Disclosure of data.

95.12(1) The state registrar may disclose data from the system of vital statistics to federal, state, county or municipal agencies of government that request such data in the conduct of their official duties, subject to conditions the state registrar may impose to ensure that the use of the data is limited to official purposes.

a. The aforementioned agencies shall not provide the certified copy or a copy of the vital record, or release information contained therein, to the person named on the certificate, a member of the person’s legal family, or the person’s legal representative.

b. Certified copies issued to the aforementioned agencies shall be appropriately stamped, for example, “administrative purposes only” or “for veteran affairs purposes only.”

95.12(2) Confidential verifications of the facts contained in vital records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity in the conduct of the agency’s or entity’s official duties, subject to conditions the state registrar may impose to ensure that the verification is limited to official purposes. Confidential verification of the facts contained in vital records may be furnished by a county registrar to another county office, within the county jurisdiction, in the conduct of the county’s official duties, subject to conditions the state and county registrar may impose to ensure that the verification is limited to official purposes.

a. Such confidential verifications shall be on forms prescribed and furnished by the state registrar or on forms furnished by the requesting agency or entity and acceptable to the state registrar, or the state registrar may authorize the verification in other ways.

b. The aforementioned agencies and entities shall not provide the original or a copy of the verified certificate, or release information contained therein, to the person named on the certificate, a member of the person's legal family, or the person's legal representative.

95.12(3) The state registrar may permit the use of data from vital statistics for research purposes subject to conditions the state registrar may impose to ensure the use of the data is limited to such research purposes. No data shall be furnished from vital statistics for research purposes until the state registrar has prepared in writing the conditions under which the data may be used and has received an agreement signed by a responsible agent of the research organization agreeing to meet and conform to such conditions.

95.12(4) The state registrar may transmit to the county registrar data needed to produce certified copies of vital records pursuant to rule 641—95.8(144).

95.12(5) The state registrar may transmit to the statewide immunization registry information from birth certificates for the sole purpose of identifying those children in need of immunizations. The state registrar may impose conditions to ensure that the use of the information is limited to official purposes.

95.12(6) The state medical examiner or the county medical examiner may request an uncertified copy of a death certificate before the death certificate is accepted and filed at the county registrar's office.

a. The copy shall be clearly stamped "administrative purposes only."

b. The death certificate shall be for the sole use of the state medical examiner or county medical examiner and shall not be used as a legal document, be distributed, be copied or be maintained other than to be made a part of the investigatory file.

c. If the state medical examiner or any county medical examiner determines the death does not warrant further investigation, the state medical examiner or county medical examiner shall destroy the uncertified copy of the death certificate.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2275C, IAB 12/9/15, effective 1/13/16]

641—95.13(144) Preparation of certified copies. Certified copies of vital records may be prepared and issued by the state registrar or the county registrar pursuant to rules 641—95.3(144) and 641—95.9(144).

95.13(1) Certified copies of vital records may be made by mechanical, electronic, or other reproductive processes, except for confidential information. Certified copies shall be issued using security paper that is prescribed by the state registrar.

95.13(2) When a certified copy is issued, each certification shall contain a statement certifying that the facts are the true facts recorded in the issuing office, the date issued, the name of the issuing office, the registrar's signature or an authorized copy thereof, and the seal of the issuing office.

95.13(3) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, fetal death, or marriage.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.14(144) Cancellation of fraudulent records.

95.14(1) When the state registrar determines that a certificate was registered through fraud or misrepresentation, the state registrar shall give to the registrant a notice in writing of the state registrar's intention to cancel said certificate.

95.14(2) The notice of cancellation shall give the registrant an opportunity to appear and show cause why the certificate shall not be canceled.

a. The notice may be served on the registrant, or, in the case of a minor or incompetent person, on the parent or guardian, by the forwarding of the notice by certified mail to the last-known address on file in the office of the state registrar.

b. The certificate shall not be available for certification unless the registrant, parent or guardian within 30 days after the date of mailing the notice shows cause satisfactory to the state registrar why the certificate shall not be canceled.

95.14(3) Upon presentation to the state registrar of a court order stating a marriage certificate was registered through fraud or misrepresentation, the state registrar shall remove said record from the vital

statistics system. The state registrar shall order the county registrar to remove any record related to the marriage.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.15(144) Unlawful acts.

95.15(1) *Serious misdemeanors.* Any person who reports information required under Iowa Code chapter 144 and who commits any of the following acts is guilty of a serious misdemeanor:

a. Willfully and knowingly makes any false statement in a report, record, or certificate required to be filed or in an application for an amendment or willfully and knowingly supplies false information intending that such information be used in the preparation or amendment of any such report, record, or certificate.

b. Without lawful authority and with the intent to deceive, makes, alters, amends, or mutilates any report, record, or certificate required to be filed or a certified copy of such report, record, or certificate.

c. Willfully and knowingly uses or attempts to use or furnish to another for use for any purpose of deception any certificate, record, or report or certified copy thereof.

d. Willfully and knowingly alters, amends, or mutilates any copy, certified copy, record or report.

e. Willfully, with the intent to deceive, uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued based upon a record which is false in whole or in part or which relates to the birth of another person.

f. Willfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person to whose birth the record relates.

g. Disinterring a body in violation of Iowa Code section 144.34.

h. Knowingly violates a provision of Iowa Code section 144.29A.

95.15(2) *Simple misdemeanors.* Any person committing any of the following acts is guilty of a simple misdemeanor:

a. Knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in Iowa Code sections 144.32, 144.33, and 144.34.

b. Refuses to provide information required by Iowa Code chapter 144.

c. Willfully violates any of the provisions of Iowa Code chapter 144 or refuses to perform any of the duties imposed upon the person.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—95.16(144) Enforcement assistance.

95.16(1) The department shall report cases of alleged violations to the proper county attorney, with a statement of the facts and circumstances, for such action as is appropriate.

95.16(2) Upon request of the department, the attorney general shall assist in the enforcement of the provisions of Iowa Code chapter 144.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

These rules are intended to implement Iowa Code chapter 144 as amended by 2015 Iowa Acts, House File 662.

[Filed ARC 0483C (Notice ARC 0376C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]¹

[Filed ARC 1074C (Notice ARC 0926C, IAB 8/7/13), IAB 10/2/13, effective 1/1/14]²

[Filed ARC 1402C (Notice ARC 1294C, IAB 1/22/14), IAB 4/2/14, effective 5/7/14]

[Filed ARC 2275C (Notice ARC 2155C, IAB 9/30/15), IAB 12/9/15, effective 1/13/16]

¹ January 16, 2013, effective date of the rescission of Chapter 95 and the adoption of new Chapter 95 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

² January 1, 2014, effective date of 95.6(2) [ARC 1074C, Item 2] delayed 70 days by the Administrative Rules Review Committee at its meeting held October 8, 2013.

CHAPTER 97
DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES
[Prior to 12/12/12, see [641] 98.2, Chs 99, 101]

641—97.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of death events are the property of the department and shall be surrendered to the state registrar upon demand.

97.2(1) The forms supplied or approved for reporting death events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

97.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of death events or the making of copies of vital records.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.3(144) Standard registration of death—up to one year. Iowa death records submitted for registration within one year from the date of death shall be prepared on the standard Certificate of Death form.

97.3(1) The county in which the death occurs or in which the dead human body is found is the county of death.

97.3(2) If the death occurs in a moving conveyance, the county in which the dead human body is first removed from the conveyance is the county of death.

97.3(3) A blank Certificate of Death form shall be used only by the state registrar or authorized agents.

97.3(4) If a funeral director uses a computer software program to generate death records, the certificate of death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.4(144) Standard registration of fetal death—up to one year. Iowa fetal death records submitted for registration within one year from the date of fetal death shall be prepared on the standard Certificate of Fetal Death form. A fetal death certificate shall not be filed after one year from the date of the event.

97.4(1) When a fetal death occurs in an institution, the person in charge of the institution or the person's designee, the physician in attendance at or after delivery, or a medical examiner may assist in preparation of the Certificate of Fetal Death form as directed by the state registrar.

97.4(2) In cases in which a fetus has reached the gestation period of 20 completed weeks or more or a weight of 350 grams or more, a Certificate of Fetal Death form shall be:

- a. Registered and maintained solely at the state registrar's office; and
- b. Filed within three days after delivery and prior to final disposition of the fetus.

97.4(3) The county in which the dead human fetus is found is the county of death. The certificate shall be filed within three days after the fetus is found.

97.4(4) If the fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

97.4(5) A blank Certificate of Fetal Death form shall be used only by the state registrar or authorized agents.

97.4(6) If a funeral director uses a computer software program to generate fetal death records, the certificate of fetal death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director

or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.5(144) Preparation of the certificate of death or fetal death.

97.5(1) The funeral director or person other than the funeral director who first assumes custody of a dead human body or fetus for the purposes of disposition shall:

- a. Obtain the personal data from the next of kin or the best-qualified person or source available;
- b. Obtain the medical certification of cause of death from the medical certifier; and
- c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death using the electronic statewide vital records system or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

97.5(2) The funeral director or person other than the funeral director who first assumes custody of the dead human body for the purposes of disposition shall prepare the certificate of death using the electronic statewide vital records system.

97.5(3) The funeral director or person other than the funeral director who first assumes custody of the dead fetus for the purposes of disposition shall prepare the certificate of fetal death on the official paper issued by the state registrar by one of the following means:

- a. Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;
- b. Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);
- c. Use of an electronic form prescribed by the state registrar; or
- d. As directed by the state registrar.

97.5(4) Unless otherwise directed by the state registrar, a certificate of fetal death shall be accepted for filing and registration only when:

- a. All names are typed in the spaces provided;
- b. All items are completed as required;
- c. No alterations or erasures are apparent;
- d. All signatures are original and genuine and are in dark blue or black ink;
- e. The certificate presented for registration is on the approved form and official paper prescribed by the state registrar;
- f. Data are consistent with the facts of death; and
- g. The form is prepared in conformity with these rules or instructions issued by the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2276C, IAB 12/9/15, effective 1/13/16]

641—97.6(144) Medical certification of death. The funeral director shall submit the completed fact of death portion of the certificate of death to the physician, physician assistant, advanced registered nurse practitioner, or medical examiner for the completion of the medical portion.

97.6(1) For a natural cause of death, the physician, physician assistant or advanced registered nurse practitioner in charge of the patient's care for the illness or condition which resulted in death shall complete and sign the medical certification within 72 hours after receipt of the death certificate from the funeral director or individual who initially assumed custody of the body.

97.6(2) If there is a non-natural cause of death, the state medical examiner or county medical examiner shall be notified and shall conduct an inquiry.

97.6(3) If the decedent was an infant or child and the cause of death is not known, a medical examiner's inquiry shall be conducted and an autopsy performed as necessary to exclude a non-natural cause of death.

97.6(4) If upon inquiry into a death, the state medical examiner or county medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in Iowa Code section 331.802(3), the state medical examiner or county medical examiner may elect to defer to the physician, physician assistant or

advanced registered nurse practitioner in charge of the patient's preexisting condition the certification of the cause of death.

97.6(5) When an inquiry is required by the state medical examiner or county medical examiner, the state medical examiner or county medical examiner shall investigate the cause and manner of death and shall complete and sign the medical certification within 72 hours after determination of the cause and manner of death.

97.6(6) The medical certifier completing the medical certification of cause of death shall attest to the accuracy of the medical certification either by signature or by an electronic process approved by the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.7(144) Medical certification of fetal death.

97.7(1) The medical certification for a fetal death shall be completed by the physician in attendance at or after delivery of the fetus within 72 hours after delivery, except when an inquiry is required by a medical examiner.

97.7(2) When an inquiry by a medical examiner is required, or when a fetal death occurs without medical attendance upon the mother at or after delivery, the medical examiner shall investigate the cause of fetal death and shall complete the medical certification of the fetal death within 72 hours after taking charge of the case.

97.7(3) The physician or medical examiner completing the medical certification of fetal death shall attest to the accuracy either by signature or by an electronic process approved by the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.8(144) Medical certifier.

97.8(1) Only an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner shall certify to the cause and manner of death.

97.8(2) If the medical certifier is unavailable, an alternate medical certifier may complete the cause and manner of death when:

- a. The alternate medical certifier has access to the medical history of the case;
- b. The alternate medical certifier views the deceased at the time of death or after death has occurred; and
- c. The death is from natural causes.

97.8(3) In all other cases in which a medical certifier is unavailable, the medical examiner shall prepare the medical certification of cause of death.

97.8(4) The medical certifier who signs the medical certification on a certificate of death shall be entitled to view the death record through the electronic statewide vital records system for up to one year from the date of death.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter; ARC 2276C, IAB 12/9/15, effective 1/13/16]

641—97.9(144) Report of autopsy findings.

97.9(1) In cases in which an autopsy is to be performed, it shall not be necessary to defer the entry of the cause of death pending a full report of microscopic or toxicological studies.

97.9(2) In any case in which the gross findings of an autopsy are inadequate to determine the cause of death, the medical certifier shall mark the cause of death as "pending investigation" on the certificate and sign the certificate. Immediately after the medical data necessary for determining the cause of death have been made known, the medical certifier shall provide to the state registrar a signed statement that identifies the decedent and the cause of death. The signed statement shall be on the medical certifier's official letterhead.

97.9(3) In any case in which the autopsy findings significantly change the medical diagnosis of cause of death, the medical certifier shall make a report of the cause of death and submit it to the state registrar as soon as the findings are available. Such report shall be a signed statement that identifies the decedent

and the revised cause of death and shall be on the medical certifier's official letterhead. Such report shall amend the original certificate, and the report shall be maintained in a sealed file.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.10(144) Extension of time. If the medical certifier is unable to complete the medical certification of cause of death or if the funeral director is unable to obtain the personal information about the deceased within the statutory time period, the funeral director shall file the certificate of death or fetal death with all available information.

97.10(1) Such certificate of death or fetal death shall be considered appropriate authority to issue a burial-transit permit.

97.10(2) As soon as possible, the person responsible for completing the information missing from the original certificate shall report the missing information to the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.11(144) Removal of a dead human body or fetus.

97.11(1) A person assuming custody of a dead human body shall:

a. Contact the attending physician, physician assistant, or advanced registered nurse practitioner and receive assurance that the death was from natural causes and that the physician, physician assistant, or advanced registered nurse practitioner will assume responsibility for certifying to the cause of death; or

b. Contact the medical examiner and receive authorization to remove the dead human body if the case is within the jurisdiction of the medical examiner.

97.11(2) A person assuming custody of a dead human fetus shall:

a. Contact the attending physician and receive assurance that the death was from natural causes and that the physician will assume responsibility for certifying to the cause of fetal death; or

b. Contact the medical examiner and receive authorization to remove the dead human fetus if the case is within the jurisdiction of the medical examiner.

97.11(3) A person other than a funeral director, medical examiner, or emergency medical service provider who assumes custody of a dead human body or fetus shall first register the certificate of death or fetal death and then secure a burial-transit permit pursuant to rule 641—97.12(144) prior to removal of the dead human body or fetus from the place of death.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.12(144) Burial-transit permit. If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead human body or fetus, the person shall secure a burial-transit permit pursuant to Iowa Code section 144.32. Pursuant to rule 645—100.4(144), an unlicensed employee of the funeral establishment shall be considered an agent of the funeral director.

97.12(1) The burial-transit permit shall be issued upon a form prescribed by the state registrar and shall state:

- a.* The name of the decedent;
- b.* The date and place of death;
- c.* If the death was from a communicable disease;
- d.* The name and location of the cemetery, crematory, or other location where final disposition of the remains is to be made;
- e.* The method of disposition;
- f.* That a certificate of death or fetal death has been filed; and
- g.* That permission is granted to inter, remove or otherwise dispose of the dead human body or fetus.

97.12(2) To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the state registrar. The burial-transit permit shall be obtained prior to the removal of the dead human body or fetus from the place of death and shall accompany the body or fetus to the place of final disposition. The person responsible for obtaining the burial-transit permit shall provide the permit to the person in charge of the place of final disposition.

97.12(3) The person in charge of the place of final disposition shall ensure that all of the requirements of this chapter relative to the burial-transit permit have been complied with before the final disposition of the remains. Such person shall retain the burial-transit permit for a period of one year from the date of the final disposition.

97.12(4) The burial-transit permit shall not be issued prior to the presentation of the completed certificate of death or certificate of fetal death.

97.12(5) A burial-transit permit shall not be issued to a person other than a licensed funeral director if the death or fetal death was caused by a suspected or known communicable disease as defined by Iowa Code section 139A.2.

97.12(6) In cases in which a fetus has reached the gestation period of 20 completed weeks or more, or a weight of 350 grams or more, a burial-transit permit shall be obtained prior to the final disposition of the fetus.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.13(144) Transportation and disposition of a dead human body or fetus.

97.13(1) A dead human body or fetus shall be transported only after enclosure in a container for transfer that will control odor and prevent leakage of body fluids, unless the body or fetus has been embalmed or is being transported by a licensed funeral director, emergency medical service provider or medical examiner. The transport of a dead human body or fetus shall be in a manner that is respectful of the dead, the feelings of relatives, and the sensibilities of the community.

97.13(2) When a dead human body or fetus is transported from the state for final disposition, the burial-transit permit shall accompany the body or fetus. When a dead human body or fetus is brought into the state for final disposition, a burial-transit permit under the law of the state in which the death occurred shall accompany the body or fetus.

97.13(3) If the final disposition of a dead human body or fetus is cremation at a licensed cremation establishment, scattering of cremated remains shall be subject to the local ordinances of the political subdivision and any and all regulations of the cemetery, if applicable, in which the scattering site is located. However, such local ordinances and cemetery regulations shall not allow the scattering of cremated remains upon public property or upon private property without the property owner's consent. In the absence of an applicable local ordinance or cemetery regulation, the scattering of cremated remains shall not be allowed upon any public property or upon private property without the property owner's consent. Cremation shall be considered final disposition by the department, and no further burial-transit permit shall be required.

97.13(4) If the final disposition of a dead human body or fetus is burial, interment, or entombment, local ordinances of the political subdivision in which the final disposition site is located and any and all regulations of the cemetery, if applicable, shall apply. In the absence of an applicable local ordinance, the depth of the grave at its shallowest point shall be at least three feet from the top of the burial container.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.14(144) Disinterment permits.

97.14(1) Disinterment of a dead human body or fetus shall be allowed for the purpose of autopsy or reburial only, and then only if the disinterment is accomplished by a funeral director.

97.14(2) Disinterment permits shall be required for any relocation aboveground or belowground of remains from the original site of interment. Disinterment permits shall be valid for 30 days after the date the permit is signed by the state registrar. Disinterment permits are issued on a form as prescribed by the state registrar with copies to be distributed as follows:

- a. One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made;
- b. One copy to be used during transportation of the remains;
- c. One copy filed with the sexton or person in charge of the cemetery of reburial; and
- d. One copy to be returned to the state registrar by the funeral director within ten days after the date of disinterment.

97.14(3) When removed from the vault for final burial, a dead human body or fetus, properly embalmed and placed in a receiving vault, shall not be considered a disinterment.

97.14(4) The following persons who are competent adults may acquire a disinterment permit without a court order pursuant to Iowa Code sections 144.34 and 144C.5 in the following descending order:

- a.* A designee, or alternate designee, acting pursuant to the decedent's declaration.
- b.* The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts are reasonably ascertainable.
- c.* A surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children whose whereabouts are reasonably ascertainable.
- d.* The surviving parent or parents of the decedent whose whereabouts are reasonably ascertainable.
- e.* A surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.
- f.* A surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.
- g.* A surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.
- h.* A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one such surviving person, a majority of such surviving persons whose whereabouts are reasonably ascertainable.
- i.* A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.
- j.* The county medical examiner, if responsible for the decedent's remains.

97.14(5) A funeral director may await a court order before proceeding with disinterment of a decedent's remains if the funeral director is aware of a dispute among:

- a.* Persons who are members of the same class of persons described in subrule 97.14(4); or
- b.* Persons who are authorized under subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.15(144) Delayed death registration—one year or more after event. Iowa deaths registered one year or more after the date of death shall be prepared on a Delayed Certificate of Death form developed by the state registrar. The state registrar shall require documentary evidence to prove the facts of the death pursuant to Iowa Code section 144.16. The delayed certificate of death shall be registered and maintained solely at the state registrar's office.

97.15(1) Application. Registration of a delayed certificate of death may be requested by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

- a.* Executor of the decedent's estate;
- b.* Spouse, if not legally separated from the decedent;
- c.* Child or legal guardian of the child if the child is under the age of majority;
- d.* Parent;
- e.* Grandchild or legal guardian of the grandchild if the grandchild is under the age of majority;
- f.* Sibling;
- g.* Grandparent; or
- h.* Funeral director responsible for the disposition of the decedent.

97.15(2) *Facts to be established.*

a. The applicant shall submit a notification of record search certified by the state registrar, which shall indicate that no prior certificate of death is on file for the person whose delayed death record is to be filed. The notification of record search shall be returned to the applicant and shall not be exchanged for a certified copy of the delayed certificate of death.

b. The applicant shall substantiate the following with documentary evidence:

- (1) The full legal name and gender of the deceased at the time of the death;
- (2) The date and place of birth;
- (3) The date and time of death;
- (4) The place of death, including the type of place and location where the death occurred;
- (5) The method and location of the final disposition;
- (6) The full name and address of the person responsible for the final disposition;
- (7) Cause and manner of death; and
- (8) The full name, address, and relationship to the decedent of the person applying to register the delayed certificate of death.

97.15(3) *Documentary evidence.*

a. The application to register the delayed certificate of death shall be supported by a minimum of the following:

- (1) An affidavit of the person filing the certificate attesting to the accuracy of the information on the certificate; and
- (2) Three dated documents from independent sources that consistently support the information required pursuant to subrule 97.15(2). The documents shall be in the form of the original record, a certified copy thereof, or a notarized statement from the custodian of the record or document on the custodian's letterhead. Personal affidavits are not acceptable.

b. The state registrar may require additional documentary evidence to prove the facts of the death event.

97.15(4) *Abstraction and certification by the state registrar.* The state registrar shall abstract on the Delayed Certificate of Death form a description of each document submitted to support the facts of death. This description shall include:

- a. The title or description of the document;
- b. The name and address of the custodian who attested to the facts on the original documents in the custodian's custody;
- c. The date of the original filing of the document being abstracted; and
- d. The information regarding the death for delayed registration.

97.15(5) *Acceptance of documentary evidence for registration.* All documents submitted in support of the delayed registration shall be returned to the applicant after review, abstraction, and registration. The state registrar shall by signature certify that:

- a. No prior certificate of death is on file for the decedent;
- b. The evidence has been reviewed and substantiates the facts of death; and
- c. The abstract of the evidence appearing on the delayed certificate of death accurately reflects the nature and content of the documents.

97.15(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence required to establish a delayed certificate of death, the state registrar shall not register the delayed record.

a. The written notice of rejection from the state registrar shall include:

- (1) The Delayed Certificate of Death form stamped "rejected"; and
- (2) The Delayed Evidence Refusal form.

b. Applications for delayed certificates which have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar shall advise the applicant, and all documents submitted in support of such registration shall be returned to the applicant.

97.15(7) Duties of county registrar. The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar may forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.

97.15(8) Fees. Administrative and certified copy fees shall be charged as provided in rule 641—95.6(144).

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.16(144) Registration of presumptive death.

97.16(1) A petition shall be filed with the district court in the county where the presumptive death occurred and shall be supported with the completed Affidavit of Personal Knowledge of a Missing Person form. The form shall be completed by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

- a. Spouse, if not legally separated from the decedent;
- b. Child or the child's legal guardian if the child is under the age of majority;
- c. Parent;
- d. Grandchild or the grandchild's legal guardian if the grandchild is under the age of majority;
- e. Sibling;
- f. Grandparent;
- g. Aunt or uncle;
- h. Niece or nephew; or
- i. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent pursuant to Iowa Code sections 633.210 to 633.226.

97.16(2) In addition to the Affidavit of Personal Knowledge of a Missing Person form or in the absence of the next of kin, the petition may be supported by the following:

- a. Affidavit by Employer for an Employee Who Was Working at Time of Disappearance form;
- b. Affidavit by Government Official for a Government Employee Missing While Involved in Rescue Efforts form; or
- c. Affidavit by Reliable Informant of Missing Person form.

97.16(3) The state registrar shall provide the affidavit forms and the certificate of presumptive death. The affidavits and the certificate of presumptive death shall be registered and maintained solely at the state registrar's office.

97.16(4) Upon presentation of a certified copy of a court order, the state registrar shall file a certificate of presumptive death pursuant to Iowa Code sections 633.517 to 633.520. The order from the district court shall only establish the presumptive death record.

97.16(5) In cases under the jurisdiction of the medical examiner, the certified copy of the court order and the completed supporting affidavits listed in subrules 97.16(1) and 97.16(2) shall be delivered to the medical examiner. The medical examiner shall complete the certificate of presumptive death and certify to the cause of death.

97.16(6) The certificate of presumptive death shall be registered and maintained solely at the state registrar's office.

97.16(7) The certificate of presumptive death shall be recorded based on the date of the court order and shall not be registered as a delayed certificate.

97.16(8) If the missing person is located and found to be alive, the certificate of presumptive death shall be voided and removed from the vital records system of registration. Any issued certified copies shall be surrendered to the state registrar.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.17(144) Release or final disposition of a dead human body or fetus by an institution.

97.17(1) When a dead human body or fetus is released by an institution, the person in charge of the institution shall maintain a record showing:

- a. Name of the deceased;
- b. Date, time, and place of death;

- c. Name, title, and license number of person who pronounced death;
- d. Name and address of the medical certifier;
- e. Name and address of the person to whom the dead human body or fetus is released; and
- f. Date of removal of the dead human body or fetus from the institution.

97.17(2) When a dead human body or fetus is released or final disposition is completed by an institution, the person in charge of the institution shall keep a record showing the date, place, and manner of release or final disposition.

97.17(3) At the direction of the state registrar, the institution shall provide the information listed in subrule 97.17(1) to the funeral director or person acting as such who assumes custody of the dead human body for purposes of final disposition.

97.17(4) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

641—97.18(144) Additional record by funeral director.

97.18(1) In addition to filing any certificate or other form required by Iowa Code chapter 144, a funeral director or other person who removes from the place of death or transports or completes final disposition of a dead human body or fetus shall maintain a record which shall identify the following:

- a. Name of the deceased;
- b. Date, time, and place of death;
- c. Name and address of the person to whom the dead human body or fetus is released;
- d. Name of institution or other place of death releasing the dead human body or fetus;
- e. Date of removal from the place of death; and
- f. Place and method of final disposition of the dead human body or fetus.

97.18(2) Records maintained under this rule shall be retained for a period of not less than ten years at the funeral establishment responsible for disposition and shall be made available for inspection by the state registrar upon demand.

[ARC 0483C, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

These rules are intended to implement Iowa Code sections 135.11(7), 144.12, 144.16 to 144.18, 144.26 to 144.29, 144.30 to 144.35, 144.47, 144.49 to 144.51, 144C.5, 331.802(3) and 633.517 to 633.520.

[Filed ARC 0483C (Notice ARC 0376C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]¹

[Filed ARC 2276C (Notice ARC 2156C, IAB 9/30/15), IAB 12/9/15, effective 1/13/16]

¹ January 16, 2013, effective date of Chapter 97 [ARC 0483C] delayed until the adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDER
EDUCATION/TRAINING/CERTIFICATION

641—131.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

“Advanced emergency medical technician” or *“AEMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

“Automated external defibrillator” or *“AED”* means an external semiautomatic device that determines whether defibrillation is required.

“Candidate” means an individual who has successfully completed a course of study at an EMR, EMT, AEMT or paramedic or other level certified by the department and who has been recommended by a training program for NREMT certification examination.

“CECBEMS” means the continuing education coordinating board for emergency medical services.

“CEH” means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

“Certification period” means the length of time an emergency medical care provider certificate is valid. The certification period shall be for two years from initial issuance or from renewal, unless otherwise specified on the certificate or unless sooner suspended or revoked.

“Certification status” means a condition placed on an individual certificate for identification as active, deceased, denied, dropped, expired, failed, hold, idle, inactive, incomplete, pending, probation, restricted, retired, revoked, surrendered, suspended, or temporary.

“Continuing education” means department-approved training which is obtained by a certified emergency medical care provider to maintain, improve, or expand relevant skills and knowledge and to satisfy renewal of certification requirements.

“Course completion date” means the date of the final classroom session of an emergency medical care provider course.

“Course coordinator” means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course.

“CPR” means training and successful course completion in cardiopulmonary resuscitation, AED, and obstructed airway procedures for all age groups according to recognized national standards.

“Critical care paramedic” or *“CCP”* means a currently certified paramedic specialist who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“Current course completion” means written recognition given for training and successful course completion of CPR with an expiration date or a recommended renewal date that exceeds the current date.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“DOT” means the United States Department of Transportation.

“Emergency medical care” means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by protocol.
5. Any medical procedure authorized by subrule 131.3(3).

“Emergency medical care provider” means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic or other certification level recognized by the department before 2011 and who has been issued a certificate by the department.

“Emergency medical responder” or *“EMR”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Responder Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

“Emergency medical services” or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

“Emergency medical technician” or *“EMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Technician Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

“Emergency medical technician-ambulance” or *“EMT-A”* means an individual who has successfully completed the 1984 United States Department of Transportation’s Emergency Medical Technician-Ambulance curriculum, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-A.

“Emergency medical technician-basic” or *“EMT-B”* means an individual who has successfully completed the current United States Department of Transportation’s Emergency Medical Technician-Basic curriculum and department enhancements, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-B.

“Emergency medical technician-defibrillation” or *“EMT-D”* means an individual who has successfully completed an approved program which specifically addresses manual or automated defibrillation, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-D.

“Emergency medical technician-intermediate” or *“EMT-I”* means an individual who has successfully completed an EMT-Intermediate curriculum approved by the department, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-I.

“Emergency medical technician-paramedic” or *“EMT-P”* means an individual who has successfully completed the current United States Department of Transportation’s EMT-Intermediate curriculum (1999) or the 1985 or earlier DOT EMT-P curriculum, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-P.

“EMS advisory council” means the council appointed by the director, pursuant to Iowa Code chapter 147A, to advise the director and develop policy recommendations concerning regulation, administration, and coordination of emergency medical services in the state.

“EMS evaluator” or *“EMS-E”* means an individual who has successfully completed an EMS evaluator curriculum approved by the department and is currently endorsed by the department as an EMS-E.

“EMS instructor” or *“EMS-I”* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

“Endorsement” means an approval granted by the department authorizing an individual to serve as an EMS-I, EMS-E or CCP.

“First responder” or *“FR”* means an individual who has successfully completed the current United States Department of Transportation’s first responder curriculum and department enhancements, has passed the department’s approved written and practical examinations, and is currently certified by the department as an FR.

“First responder-defibrillation” or *“FR-D”* means an individual who has successfully completed an approved program that specifically addresses defibrillation, has passed the department’s approved written and practical examinations, and is currently certified by the department as an FR-D.

“Good standing” means that a student or candidate is in compliance with these rules and training program requirements.

“Idle” means the status of a lower certification level when a higher certification level is held.

“Inactive” means the status of a certification level when an individual requests inactive status or moves from a higher certification level to a lower certification level that was previously idle.

“NCA” means North Central Association of Colleges and Schools.

“NREMT” means National Registry of Emergency Medical Technicians.

“Out-of-state student” means any individual participating in clinical or field experience as a student in an approved out-of-state training program.

“Out-of-state training program” means an EMS program located outside the state of Iowa that is approved by the authorizing agency of the program’s home state to conduct initial EMS training for EMR, EMT, AEMT, paramedic or other level certified by the department.

“Outreach course coordinator” means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course held outside the training program facilities.

“Paramedic” means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Paramedic Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examination for the paramedic, and is currently certified by the department as a paramedic.

“Paramedic specialist” or *“PS”* means an individual who has successfully completed the current United States Department of Transportation’s EMT-Paramedic curriculum (1999) or equivalent, has passed the department’s approved written and practical examinations, and is currently certified by the department as a paramedic specialist.

“Patient” means an individual who is sick, injured, or otherwise incapacitated.

“Physician” means an individual licensed under Iowa Code chapter 148.

“Physician assistant” or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

“Physician designee” means a registered nurse licensed under Iowa Code chapter 152 or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistants. The physician designee acts as an intermediary for a supervising physician in accordance with written policies and protocols in directing the care provided by emergency medical care providers.

“Preceptor” means an individual who has been assigned by the training program, clinical facility or service program to supervise students while the students are completing their clinical or field experience. A preceptor must be an emergency medical care provider certified at the level at which the preceptor is providing supervision or at a higher level or must be licensed as a registered nurse, physician assistant or physician.

“Primary instructor” means an individual who is responsible for teaching the majority of an emergency medical care provider course.

“Protocols” means written directions and orders consistent with the department’s standard of care that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols must be approved by the service program’s medical director and address the care of both adult and pediatric patients.

“Registered nurse” or *“RN”* means an individual licensed pursuant to Iowa Code chapter 152.

“Service program” or *“service”* means any medical care ambulance service or nontransport service that has received authorization from the department.

“Service program area” means the geographic area of responsibility served by any given ambulance or nontransport service program.

“Student” means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portion of the program.

“Training program” means an Iowa college approved by the North Central Association of Colleges and Schools or an Iowa hospital authorized by the department to conduct emergency medical care training.

“Training program director” means an appropriate health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

“Training program medical director” means a physician licensed under Iowa Code chapter 148 who is responsible for directing an emergency medical care training program.
[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.2(147A) Emergency medical care providers—requirements for enrollment in training programs. To be enrolled in an EMS training program course leading to certification by the department, an applicant shall:

1. Be at least 17 years of age at the time of enrollment.
2. Have a high school diploma or its equivalent if enrolling in an AEMT or paramedic course.
3. Be able to speak, write and read English.
4. Hold a current course completion card in CPR if enrolling in an EMT, AEMT or paramedic course.
5. Be currently certified, as a minimum, as an EMT if enrolling in an AEMT or paramedic course. If an applicant is currently nationally registered but not certified in Iowa, the applicant must submit an endorsement application to the department within 14 days after the course start date.
6. Be a current emergency medical care provider, RN, PA, or physician and submit a recommendation in writing from an approved EMS training program if enrolling in an EMS instructor course.
7. Be currently certified as a paramedic if enrolling in a CCP course.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.3(147A) Emergency medical care providers—authority.

131.3(1) Authority of emergency medical care personnel. An emergency medical care provider who holds an active certification issued by the department may:

a. Render, via on-line medical direction, emergency and nonemergency medical care in those areas for which the emergency medical care provider is certified as part of an authorized service program:

- (1) At the scene of an emergency;
- (2) During transportation to a hospital;
- (3) While in the hospital emergency department;
- (4) Until patient care is directly assumed by a physician or by authorized hospital personnel; and
- (5) During transfer from one medical care facility to another or to a private home.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when under the direct supervision of a physician when:

- (1) Enrolled as a student in, and approved by, a training program;
- (2) Fulfilling continuing education requirements;
- (3) Employed by or assigned to a hospital or other entity in which health care is ordinarily

provided only when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(4) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

131.3(2) When emergency medical care personnel are functioning in a capacity identified in 131.3(1)“a,” they may perform emergency and nonemergency medical care without contacting a supervising physician or physician designee if written protocols have been approved by the service program medical director which clearly identify when the protocols may be used in lieu of voice contact.

131.3(3) Scope of practice.

a. Emergency medical care providers shall provide only those services and procedures that are authorized within the scope of practice for which they are certified.

b. Scope of Practice for Iowa EMS Providers (April 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

c. The department may grant a variance for changes to the Scope of Practice that have not yet been adopted by reference in these rules. A variance to these rules may be granted by the department pursuant to 641—subrule 132.14(1).

d. Scope of Practice for Iowa EMS Providers is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

131.3(4) The department may approve emergency medical pilot project(s) on a limited basis. Requests for a pilot project application shall be made to the department.

131.3(5) An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

[ARC 9443B, IAB 4/6/11, effective 8/1/11; ARC 0062C, IAB 4/4/12, effective 5/9/12; ARC 0480C, IAB 12/12/12, effective 1/16/13; ARC 1404C, IAB 4/2/14, effective 5/7/14; ARC 2277C, IAB 12/9/15, effective 1/13/16]

641—131.4(147A) Emergency medical care providers—certification, renewal standards, procedures, continuing education, and fees.

131.4(1) *Student application and candidate examination.*

a. Applicants shall complete the EMS Student Registration within 14 days after the beginning of the course. The EMS Student Registration shall be completed via the bureau of EMS Web site at www.idph.state.ia.us/ems.

b. Upon satisfactory completion of the course and all training program requirements, including payment of appropriate fees, a candidate shall be recommended by a training program to take the appropriate NREMT certification examination. A candidate is not eligible to continue functioning as a student in the clinical and field settings and must obtain state certification to perform appropriate skills.

c. A candidate shall submit an EMS Certification Application form to the department. EMS Certification Application forms are provided by the department.

d. When a student’s EMS Student Registration or a candidate’s EMS Certification Application is referred to the department for investigation or when a student or candidate is otherwise under investigation by the department, the individual shall not be eligible for certification, and the practical examination results will not be confirmed with the NREMT, until the individual is approved by the department.

e. The fee for certification as an emergency medical care provider is \$30, payable to the Iowa Department of Public Health. This nonrefundable fee shall be paid prior to a candidate’s receiving certification.

f. A candidate must successfully complete the NREMT practical and cognitive examinations to be eligible for state certification.

g. The practical examination may be conducted by an authorized training program and must be conducted according to the policies and procedures of the NREMT.

h. A candidate must meet all certification requirements within two years of the initial course completion date. If a candidate is unable to complete the requirements within two years due to medical reasons or military obligation, an extension may be granted upon submission of a signed statement from an appropriate medical or military authority and approval by the department.

i. Examination scores shall be confidential except that they may be released to the training program that provided the training or to other appropriate state agencies or released in a manner which does not permit the identification of an individual.

j. An applicant for EMS-I endorsement shall successfully complete an EMS-Instructor curriculum approved by the department.

131.4(2) Multiple certificates and renewal.

a. The department shall consider the highest level of certification attained to be active. Any lower levels of certification shall be considered idle.

b. A lower-level certificate may be issued if the individual fails to renew the higher level of certification or voluntarily chooses to move from a higher level to a lower level. To be issued a certificate in these instances, an individual shall:

(1) Complete all applicable continuing education requirements for the lower level during the certification period and submit a change of status request, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

(2) Complete and submit to the department an EMS Affirmative Renewal of Certification Application and the applicable fee.

(3) Complete the reinstatement process in 131.4(4) “f” if renewal of the higher level is requested later.

c. A citation and warning, denial, probation, restriction, suspension or revocation imposed upon an individual certificate holder by the department shall be considered applicable to all certificates issued to that individual by the department.

131.4(3) Certification transition.

a. An individual certified as a first responder based on the 1996 National Standard Curriculum for First Responders, an EMT-B, an EMT-I, an EMT-P or a PS shall complete the following certification transition requirements. Transition documents for each level are available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

b. FR transition to EMR.

(1) The FR shall complete training identified in the FR to EMR Documentation (January 2011).

(2) The FR shall verify completion of training on the Affirmative Renewal of Certification Application by the certification’s regular expiration date prior to October 1, 2014.

(3) An FR who does not complete the transition requirements will not satisfy the renewal requirements for the certification period immediately prior to October 1, 2014.

c. EMT-B transition to EMT.

(1) The EMT-B shall complete training identified in the EMT-B to EMT Documentation (January 2011).

(2) The EMT-B shall verify completion of training on the Affirmative Renewal of Certification Application by the certification’s regular expiration date prior to April 1, 2015.

(3) An EMT-B who does not complete the transition requirements will not satisfy the renewal requirements for the certification period immediately prior to April 1, 2015.

d. EMT-I transition to AEMT.

(1) The EMT-I shall submit documentation of training identified in the EMT-I to AEMT Documentation (January 2011) to the department.

(2) The EMT-I shall successfully complete the NREMT computer-based AEMT examination.

(3) A provider certified as an EMT-I who has not completed the transition to AEMT will be issued an EMT certification on April 1, 2016.

e. EMT-P transition to paramedic.

(1) The EMT-P shall submit documentation of training identified in the EMT-P to Paramedic Documentation (January 2011) to the department.

(2) The EMT-P shall successfully complete the NREMT computer-based paramedic examination.

(3) A provider certified as an EMT-P who has not completed the transition to paramedic will be issued an AEMT certification on April 1, 2018.

f. PS transition to paramedic.

(1) The PS shall complete training identified in the PS to Paramedic Documentation (January 2011).

(2) The PS shall verify completion of training on the Affirmative Renewal of Certification Application by the certification's regular expiration date prior to April 1, 2015.

(3) A PS who does not complete the transition requirements will not satisfy the renewal requirements for the certification period immediately prior to April 1, 2015.

131.4(4) *Renewal of certification.*

a. A certificate shall be valid for two years from issuance unless specified otherwise on the certificate or unless sooner suspended or revoked.

b. All continuing education requirements shall be completed during the certification period prior to the certificate's expiration date. Failure to complete the continuing education requirements prior to the expiration date shall result in an expired certification, unless the emergency medical care provider requests an extension as described in 131.4(11) "b."

c. An emergency medical care provider shall submit the EMS Affirmative Renewal of Certification Application to the department within 90 days prior to the expiration date. Failure to submit a renewal application to the department within 90 days prior to the expiration date (date of submission is based upon the postmark date) shall cause the current certification to expire.

d. An emergency medical care provider shall not function with an expired certification.

e. An emergency medical care provider who completes the required continuing education during the certification period but fails to submit the EMS Affirmative Renewal of Certification Application within 90 days prior to the expiration date shall be required to submit a late fee of \$30 (in addition to the renewal fee) and complete the audit process pursuant to 131.4(5) "i" to obtain renewal of certification.

f. An emergency medical care provider who has not completed the required continuing education during the certification period or who is seeking to reinstate an expired, inactive, or retired certificate shall:

(1) Complete a refresher course or equivalent approved by the department.

(2) Meet all applicable eligibility requirements.

(3) Submit an EMS Reinstatement Application and the applicable fees to the department.

(4) Pass the appropriate practical and cognitive certification examinations.

g. An emergency medical care provider may request an inactive or retired status for a certificate. The request must be made by submitting a change of status request, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems). Reinstatement of an inactive or retired certificate shall be made pursuant to 131.4(4) "f." A request for inactive or retired status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

h. An emergency medical care provider shall be deemed to have complied with the continuing education requirements during periods in which the provider serves honorably on active duty in the military services or for periods in which the provider is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The emergency medical care provider must submit the Affirmative Renewal of Certification Application, all appropriate fees and documentation of assignment.

131.4(5) *Continuing education renewal standards.* The following standards apply to renewal through continuing education:

a. An applicant shall sign and submit an Affirmative Renewal of Certification Application provided by the department and submit the applicable fee within 90 days prior to the certificate's expiration date.

b. An applicant shall complete the continuing education requirements, including current course completion in CPR, during the certification period for the following emergency medical care provider levels:

- (1) EMR, FR, FR-D—12 hours of approved continuing education.
- (2) EMT, EMT-A, EMT-B, EMT-D—24 hours of approved continuing education.
- (3) AEMT, EMT-I—36 hours of approved continuing education.
- (4) EMT-P—48 hours of approved continuing education.
- (5) PS, paramedic—60 hours of approved continuing education.
- (6) EMS-I—Attend at least one EMS-I workshop sponsored by the department.
- (7) CCP—8 hours of approved CCP core curriculum topics.

c. At least 50 percent of the required hours for renewal shall be formal continuing education including, but not limited to, refresher programs, seminars, lecture programs, scenario-based programs, conferences, and Internet-delivered courses approved by CECBEMS and shall meet the criteria established in 131.4(6) “d.”

d. Up to 50 percent of the required continuing education hours may be made up of any of the following:

- (1) Nationally recognized EMS-related courses.
- (2) EMS self-study courses.
- (3) Medical director or designee case reviews.
- (4) Clinical rounds with medical team (grand rounds).
- (5) Working with students as an EMS field preceptor.
- (6) Hospital or nursing home clinical performance.
- (7) Skills workshops/maintenance.
- (8) Community public information education projects.
- (9) Emergency driver training.
- (10) EMS course audits.
- (11) Injury prevention or wellness initiatives.
- (12) EMS service operations, e.g., management programs, continuous quality improvement.
- (13) EMS system development meetings that occur at the county, regional or state level.
- (14) Disaster preparedness.
- (15) Emergency runs/responses as a volunteer member of an authorized EMS service program (primary attendant).

(16) EMS-Instructor development.

e. Additional hours may be allowed for any of the following (maximum):

- (1) CPR—2 hours.
- (2) Disaster drill—4 hours.
- (3) Rescue—4 hours.
- (4) Hazardous materials—8 hours.
- (5) Practical examination evaluator—4 hours.
- (6) Topics outside the provider’s core curriculum—8 hours.

f. With training program approval, a person who is not enrolled in an emergency medical care provider course may audit the course for CEHs.

g. The certificate holder must notify the department within 30 days of a change in address.

h. The certificate holder shall maintain a file containing documentation of CEHs accrued during each certification period for four years from the end of each certification period.

i. A group of individual certificate holders will be audited for each certification period. Certificate holders to be audited will be chosen in a random manner or at the discretion of the bureau of EMS. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action. Certificate holders who are audited will be required to submit an Audit Report Form provided by the department within 45 days of the request. If audited, the certificate holders must provide the following information:

- (1) Date of program.
- (2) Program sponsor number.
- (3) Title of program.
- (4) Number of approved hours.

(5) Appropriate supervisor signatures if clinical or practical evaluator hours are claimed.

j. An EMS instructor who teaches EMS initial or continuing education courses may use those courses for renewal as approved under subrule 131.4(6).

131.4(6) Continuing education approval. The following standards shall be applied for approval of continuing education:

a. Required CEHs identified in 131.4(5) “c” shall be approved by the department, CECBEMS, or an authorized EMS training program, using a sponsor number assignment system approved by the department.

b. Optional CEHs identified in 131.4(5) “d” and 131.4(5) “e” require no formal sponsor number; however, CEHs awarded shall be verified by an authorized EMS training program, a national EMS continuing education accreditation entity, a service program medical director, an appropriate community sponsor, or the department. Documentation of CEHs awarded shall include the date and title of the program or event, the number of hours approved, and the applicable signatures.

c. Courses in physical, social or behavioral sciences offered by accredited colleges and universities are approved for CEHs and need no further approval. One quarter credit equals 10 hours. One semester credit equals 15 hours.

d. Courses approved as formal education must meet the following criteria:

(1) Involve live interaction with an instructor or be an Internet-delivered course approved by CECBEMS; and

(2) Be based on the appropriate department curricula for EMS providers and include one or more of the following topic areas: airway management, patient assessment, trauma assessment and management, medical assessment and management, behavioral emergencies, obstetrics, gynecology, pediatrics, or patient care record documentation.

e. Programs developed and delivered by the department may be approved for formal education.

131.4(7) Out-of-state continuing education. Out-of-state continuing education courses will be accepted for CEHs if they meet the criteria in subrule 131.4(5) and have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department with the EMS Affirmative Renewal of Certification Application.

131.4(8) Fees. The following fees shall be collected by the department and shall be nonrefundable:

a. FR, EMR, EMT-B, EMT, EMT-I, AEMT, EMT-P, PS and paramedic certification fee—\$30.

b. Certification renewal fees:

(1) FR, EMR, EMT-B, and EMT—no fee.

(2) EMT-I, AEMT—\$10.

(3) EMT-P, PS and paramedic—\$25.

A certification renewal fee is refundable if the applicant’s certification renewal status is not posted on the bureau of EMS Web site in the certification database within ten working days from the date the department receives the completed renewal application.

c. Endorsement certification fee—\$50.

d. Reinstatement fee—\$30.

e. Late fee—\$30.

f. Duplicate/replacement card—\$10.

g. Returned check—\$20.

h. Extension fee—\$50.

131.4(9) Certification through reciprocity. An individual currently certified by the NREMT must also possess a current Iowa certificate to be considered certified in this state. The department shall contact the NREMT to verify certification or registry and good standing.

a. To receive Iowa certification, the individual shall:

(1) Complete and submit the EMS Reciprocity Application available from the department.

(2) Provide verification of current certification in another state, if applicable, and registration with the NREMT.

(3) Provide verification of current course completion in CPR.

(4) Meet all other applicable eligibility requirements necessary for Iowa certification pursuant to these rules.

(5) Submit all applicable fees to the department.

b. An individual certified through reciprocity shall satisfy the renewal and continuing education requirements set forth in subrule 131.4(4) to renew Iowa certification.

131.4(10) *National registration in lieu of continuing education.*

a. An emergency medical care provider who is certified in Iowa and is registered with the NREMT may renew certification by meeting the NREMT reregistration requirements.

b. The emergency medical care provider shall submit the NREMT Registration in Lieu of Continuing Education Application, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems), to the department, with proof of NREMT registration exceeding the current certification expiration date, within 90 days prior to the expiration date.

131.4(11) *Extension of certification.*

a. If an emergency medical care provider is unable to complete the required continuing education during the certification period due to a medical reason, an extension of certification may be issued upon submission of a signed statement from an appropriate medical provider and approval by the department. The statement must include information concerning the reason the emergency medical care provider could not complete the continuing education requirements, the time period affected, and the length of time requested for extension.

b. If an emergency medical care provider is unable to attain all continuing education requirements within the certification period, a 45-day extension may be granted. To complete the extension process, the provider shall:

(1) Submit a Request for Extension Application, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems), at least 7 days prior to the expiration date, but no more than 90 days prior to the expiration date, and a \$50 extension fee.

(2) Be given 45 days from the current expiration date to complete continuing education requirements.

(3) Submit the EMS Affirmative Renewal of Certification Application, with all applicable renewal fees, to the department prior to the extended expiration date (date of submission is based on the postmark date).

(4) Not use continuing education completed during the extension period in the subsequent renewal period.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.5(147A) Training programs—standards, application, inspection and approval.

131.5(1) *Education standards.*

a. A training program shall use the applicable United States Department of Transportation's Education Standards (January 2009) for courses leading to certification.

b. A training program shall use the EMS-Instructor curriculum approved by the department for courses leading to the EMS-I endorsement.

c. A training program shall use the Iowa CCP curriculum (November 2001) for courses leading to the CCP endorsement.

d. A training program may waive portions of the required emergency medical care provider training for individuals certified as emergency medical care providers or licensed in other health care professions including, but not limited to, nursing, physician assistant, respiratory therapist, dentistry, and military. The training program shall document equivalent training and what portions of the course have been waived for equivalency.

131.5(2) *Clinical or field experience resources.* If clinical or field experience resources are located outside the framework of the training program, written agreements for such resources shall be obtained by the training program.

131.5(3) Facilities.

a. A training program shall ensure adequate classroom, laboratory, and practice space to conduct the training program. A library with reference materials on emergency and critical care shall also be available.

b. A training program shall ensure opportunities for the student to accomplish the appropriate skill competencies in the clinical environment. The following hospital units shall be available for clinical experience for each training program as required in approved education standards pursuant to subrule 131.5(1):

- (1) Emergency department;
- (2) Intensive care unit or coronary care unit or both;
- (3) Operating room and recovery room;
- (4) Intravenous or phlebotomy team or other method to obtain IV experience;
- (5) Pediatric unit;
- (6) Labor and delivery suite and newborn nursery; and
- (7) Psychiatric unit.

c. A training program shall ensure opportunities for the student to accomplish the appropriate skill competencies in the field environment. The training program shall use an appropriate emergency medical care service program to provide field experience as required in approved education standards pursuant to subrule 131.5(1).

d. A training program shall have liability insurance and shall offer liability insurance to students while they are enrolled in the training program.

131.5(4) Staff.

a. A training program medical director shall be a physician licensed under Iowa Code chapter 148.

b. A training program director who is an appropriate health care professional shall be appointed. This individual shall be a full-time educator or a practitioner in emergency or critical care.

c. Course coordinators, outreach course coordinators, and primary instructors used by the training program shall be currently endorsed as EMS instructors.

d. The instructional staff shall be comprised of physicians, nurses, pharmacists, emergency medical care personnel, or other health care professionals who have appropriate education and experience in emergency and critical care.

e. Preceptors shall be assigned in each of the clinical units in which emergency medical care students are obtaining clinical experience and field experience. The preceptors shall supervise student activities to ensure the quality and relevance of the experience. Student activity records shall be kept and reviewed by the immediate supervisor(s) and by the program director and course coordinator.

f. If a training program's medical director resigns, the training program director shall report this to the department and provide a curriculum vitae for the medical director's replacement. A new course shall not be started until a qualified medical director has been appointed.

g. A training program shall maintain records pertaining to each instructor used which include, as a minimum, the instructor's qualifications.

h. A training program is responsible for ensuring that each instructor is experienced in the area being taught and adheres to the education standards.

i. The training program shall ensure that each practical examination evaluator and mock patient is familiar with the NREMT practical examination requirements and procedures. Practical examination evaluators shall attend a workshop sponsored by the department and have the evaluator endorsement.

131.5(5) Advisory committee. There shall be an advisory committee which includes training program representatives and representatives from other groups such as affiliated medical facilities, local medical establishments, and ambulance, rescue and first response service programs.

131.5(6) Student records. A training program shall maintain an individual record for each student. Training program policy and department requirements will determine contents. These requirements include, but are not limited to:

- a. Application;
- b. Current certifications and endorsements;

c. Student record or transcript of hours and performance (including examinations) in classroom, clinical, and field experience settings.

131.5(7) *Selection of students.* There may be a selection committee to select students. The selection committee shall use, as a minimum, the prerequisites outlined in rule 641—131.2(147A).

131.5(8) *Students.*

a. A student may perform any procedures and skills for which the student has received training if the student is under the direct supervision of a physician or physician designee or under the remote supervision of a physician or physician designee with direct field supervision by an appropriately certified emergency medical care provider.

b. A student shall not be substituted for the regular personnel of any affiliated medical facility or service program but may be employed while enrolled in the training program.

c. A student is not eligible to continue functioning as a student of the training program in the clinical or field setting if the student is not in good standing with the training program, once the student has met the training program requirements, or once the student has been approved for certification testing.

131.5(9) *Financing and administration.*

a. There shall be sufficient funding available to the training program to ensure that each class started can be completed.

b. Tuition charged to students shall be accurately stated.

c. Advertising for training programs shall be appropriate.

d. A training program shall provide to each student, no later than the first session of the course, a guide that outlines, as a minimum:

(1) Course objectives.

(2) Required hours for completion.

(3) Minimum acceptable scores on interim testing.

(4) Attendance requirements.

(5) Grievance procedure.

(6) Disciplinary actions that may be invoked, the grounds for such actions, and the process provided.

(7) Requirements for certification.

131.5(10) *Training program application, inspection and approval.*

a. A training program graduating students at the paramedic level after December 31, 2012, must be accredited by, or must have submitted a self-study application to, the Committee on Accreditation for the Emergency Medical Services Professions.

b. A training program seeking initial or renewal approval shall use the EMS Training Program Application provided by the department. The application shall include, as a minimum:

(1) Names of appropriate officials of the training program;

(2) Evidence of availability of clinical resources;

(3) Evidence of availability of physical facilities;

(4) Evidence of qualified faculty;

(5) Qualifications and major responsibilities of each faculty member;

(6) Policies used for selection, promotion, and graduation of trainees;

(7) Practices followed in safeguarding the health and well-being of trainees and of patients receiving emergency medical care within the scope of the training program; and

(8) Level(s) of EMS certification to be offered.

c. A new training program shall submit a needs assessment which justifies the need for the training program.

d. Applications shall be reviewed by the department in accordance with the 2005 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions, published by the Commission on Accreditation of Allied Health Education Programs. Failure to comply with the standards may lead to disciplinary action as described in rule 641—131.8(147A).

e. The department shall perform an on-site inspection of the training program's facilities and clinical resources. The purpose of the inspection is to examine educational objectives, patient care practices, facilities and administrative practices and to prepare a written report for review and action by the department.

f. The department shall inspect each training program at least once every five years. The department without prior notification may make additional inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

g. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.

h. Representatives of the training program may be required by the department to meet with the department at the time the application and inspection report are discussed.

i. A written report of department action and the department inspection report shall be sent to the training program.

j. Training program approval shall not exceed five years.

k. A training program shall notify the department, in writing, of any change in ownership or control within 30 days.

l. Temporary variances. If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary variance. Temporary variances to these rules (not to exceed six months in length per any approved request) may be granted by the department to a currently authorized training program. Requests for temporary variances shall apply only to the training program requesting the variance and shall apply only to those requirements and standards for which the department is responsible. To request a variance, the training program shall:

(1) Notify the department verbally (as soon as possible) of the need to request a temporary variance. The program shall submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary variance request. The address is Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075.

(2) Cite the rule from which the variance is requested.

(3) State why compliance with the rule cannot be maintained.

(4) Explain the alternative arrangements that have been or will be made regarding the variance request.

(5) Estimate the period of time for which the variance will be needed.

m. Training program applications and on-site inspection reports are public information.

131.5(11) Out-of-state training program application and approval.

a. An out-of-state training program shall apply to the department for approval.

b. An out-of-state training program seeking department approval shall use the out-of-state training program application provided by the department. The application shall include, as a minimum:

(1) Verification of approval to conduct initial EMS training by the authorizing agency within the out-of-state training program's home state;

(2) Evidence of oversight provided by a physician medical director;

(3) Evidence of qualified faculty;

(4) Evidence of curriculum utilized;

(5) Evidence of written contracts between the out-of-state training program and clinical and field sites being utilized within Iowa; and

(6) Description of practices followed in safeguarding the health and well-being of trainees and of patients receiving emergency medical care within the scope of the training program.

c. An out-of-state training program shall provide the department with a roster of students who will be participating in the clinical or field experience within the state of Iowa and, for each program, the sites where the students will be participating.

d. An out-of-state training program shall not be authorized to provide initial EMS training within the state of Iowa.

e. An out-of-state training program shall be limited to utilization of clinical or field sites or both within Iowa.

f. Representatives of the out-of-state training program may be required by the department to meet with the department at the time the application is discussed.

g. An out-of-state training program approval shall not exceed five years.

h. An out-of-state training program shall notify the department, in writing, of any change in ownership, control, or approval status by the out-of-state training program's authorizing state agency within 30 days.

131.5(12) *Out-of-state students.*

a. An out-of-state student shall be registered in good standing in an approved out-of-state training program.

b. An out-of-state student may perform any procedures and skills for which the student is training provided that the procedure or skill is within the Iowa scope of practice policy of a comparable Iowa emergency medical care provider. The student must be under the direct supervision of a physician or physician designee or under the remote supervision of a physician or physician designee with direct supervision by an appropriately certified emergency medical care provider.

c. An out-of-state student shall not be substituted for personnel of any affiliated medical facility or service program but may be employed while enrolled in the training program.

d. An out-of-state student participating in the clinical or field setting within the state of Iowa shall provide documentation of liability insurance.

e. An out-of-state student is not eligible to continue functioning as a student of the approved out-of-state training program in the clinical or field setting if the student is not in good standing with the approved out-of-state training program, once the student has met the training program's requirements, or once the student has been approved for certification testing.

f. An out-of-state student shall not be eligible for Iowa EMS certification without meeting the requirements for certification through reciprocity in subrule 131.4(9).

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.6(147A) Continuing education providers—approval, record keeping and inspection.

131.6(1) Continuing education courses for emergency medical care personnel may be approved by the department, an EMS training program or a national EMS continuing education accreditation entity.

131.6(2) A training program may conduct continuing education courses (utilizing appropriate instructors) pursuant to subrule 131.4(6).

a. Each training program shall assign a sponsor number to each appropriate continuing education course using an assignment system approved by the department.

b. Course approval shall be completed prior to the course's being offered.

c. Each training program shall maintain a participant record that includes, as a minimum:

- (1) Name.
- (2) Address.
- (3) Certification number.
- (4) Course sponsor number.
- (5) Course instructor.
- (6) Date of course.
- (7) CEHs awarded.

d. Each training program shall submit to the department on a quarterly basis a completed Approved EMS Continuing Education Form.

131.6(3) Record keeping and record inspection.

a. To ensure compliance or to verify the validity of any training program application, the department may request additional information or inspect the records of any continuing education provider who is currently approved or who is seeking approval.

b. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.7(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal.

131.7(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

131.7(2) Method of discipline. The department has the authority to impose the following disciplinary sanctions against an emergency medical care provider:

- a.* Issue a citation and warning.
- b.* Impose a civil penalty not to exceed \$1000.
- c.* Require reexamination.
- d.* Require additional education or training.
- e.* Impose a period of probation under specific conditions.
- f.* Prohibit permanently, until further order of the department, or for a specific period, a provider's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.
- g.* Suspend a certificate until further order of the department or for a specific period.
- h.* Deny an application for certification.
- i.* Revoke a certification.
- j.* Impose such other sanctions as allowed by law and as may be appropriate.

131.7(3) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.7(2) when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

- a.* Negligence in performing emergency medical care.
- b.* Failure to follow the directions of supervising physicians or their designees.
- c.* Rendering treatment not authorized under Iowa Code chapter 147A.
- d.* Fraud in procuring certification or renewal including, but not limited to:
 - (1) An intentional perversion of the truth in making application for a certification to practice in this state;
 - (2) False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a certification in this state; or
 - (3) Attempting to file or filing with the department or training program any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a certification in this state.
- e.* Professional incompetency. Professional incompetency includes, but is not limited to:
 - (1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
 - (2) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other emergency medical care providers in the state of Iowa acting in the same or similar circumstances.
 - (3) A failure to exercise the degree of care which is ordinarily exercised by the average emergency medical care provider acting in the same or similar circumstances.
 - (4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified emergency medical care providers in this state.
- f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof

of actual injury need not be established. Acts which may constitute unethical conduct include, but are not limited to:

- (1) Verbally or physically abusing a patient or coworker.
- (2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient or coworker.
- (3) Betrayal of a professional confidence.
- (4) Engaging in a professional conflict of interest.
- (5) Falsification of medical records.
- g.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- h.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- i.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- j.* Failure to report another emergency medical care provider to the department for any violations listed in these rules, pursuant to Iowa Code chapter 147A.
- k.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
- l.* Representing oneself as an emergency medical care provider when one's certification has been suspended or revoked or when one's certification is lapsed or has been placed on inactive status.
- m.* Permitting the use of a certification by a noncertified person for any purpose.
- n.* Mental or physical inability reasonably related to and adversely affecting the emergency medical care provider's ability to practice in a safe and competent manner.
- o.* Being adjudged mentally incompetent by a court of competent jurisdiction.
- p.* Sexual harassment of a patient, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- q.* Habitual intoxication or addiction to drugs.
 - (1) The inability of an emergency medical care provider to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
 - (2) The excessive use of drugs which may impair an emergency medical care provider's ability to practice with reasonable skill or safety.
 - (3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- r.* Fraud in representation as to skill, ability or certification.
- s.* Willful or repeated violations of Iowa Code chapter 147A or these rules.
- t.* Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of emergency medical care, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- u.* Having certification to practice emergency medical care suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- v.* Falsifying certification renewal reports or failure to comply with the renewal audit request.
- w.* Acceptance of any fee by fraud or misrepresentation.
- x.* Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- y.* Violating privacy and confidentiality. An emergency medical care provider shall not disclose or be compelled to disclose patient information unless required or authorized by law.
- z.* Discrimination. An emergency medical care provider shall not practice, condone, or facilitate discrimination against a patient, student, or supervisee on the basis of race, ethnicity, national origin,

color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

aa. Practicing emergency medical services or using a designation of certification or otherwise holding oneself out as practicing emergency medical services at a certain level of certification when the emergency medical care provider is not certified at such level.

ab. Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department which was sent by registered or certified mail.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.8(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal.

131.8(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

131.8(2) Method of discipline. The department has the authority to impose the following disciplinary sanctions against a training program:

- a.* Issue a citation and warning.
- b.* Impose a period of probation under specific conditions.
- c.* Prohibit permanently, until further order of the department, or for a specific period, a program's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.
- d.* Suspend an authorization until further order of the department or for a specific period.
- e.* Deny an application for authorization.
- f.* Revoke an authorization.
- g.* Impose such other sanctions as allowed by law and as may be appropriate.

131.8(3) The department may impose any of the disciplinary sanctions provided in subrule 131.8(2) when it finds that the training program or applicant has failed to meet the applicable provisions of these rules or has committed any of the following acts or offenses:

- a.* Fraud in procuring approval or renewal.
- b.* Falsification of training or continuing education records.
- c.* Suspension or revocation of approval to provide emergency medical care training or other disciplinary action taken pursuant to Iowa Code chapter 147A. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- d.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- e.* Failure to respond within 30 days of receipt of communication from the department which was sent by registered or certified mail.
- f.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- g.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- h.* Submission of a false report of continuing education or failure to submit the quarterly report of continuing education.
- i.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
- j.* Representing itself as an approved training program or continuing education provider when approval has been suspended or revoked or when approval has lapsed or has been placed on inactive status.
- k.* Using an unqualified individual as an instructor or evaluator.
- l.* Allowing verbal or physical abuse of a student or staff.
- m.* A training program provider or continuing education provider shall not sexually harass a patient, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- n.* Betrayal of a professional confidence.
- o.* Engaging in a professional conflict of interest.

p. Discrimination. A training program or continuing education provider shall not practice, condone, or facilitate discrimination against a patient, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

q. Failure to comply with the 2005 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions, published by the Commission on Accreditation of Allied Health Education Programs.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.9(147A) Reinstatement of certification.

131.9(1) Any person whose certification to practice has been revoked or suspended may apply to the department for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

131.9(2) If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur or if the certification was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

131.9(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the department an application for reinstatement of the certification. Such application shall be docketed in the original case in which the certification was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the department.

131.9(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the department to determine that the basis for the revocation or suspension of the respondent's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts shall be on the respondent.

131.9(5) An order denying or granting reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law. The order shall be published as provided for in this chapter.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.10(147A) Certification denial.

131.10(1) An applicant who has been denied certification by the department may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the department not more than 20 days following the date of mailing of the notification of certification denial to the applicant. The request for hearing shall specifically delineate the facts to be contested at hearing.

131.10(2) All hearings held pursuant to this rule shall be held pursuant to the process outlined in this chapter.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.11(147A) Emergency adjudicative proceedings. To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

131.11(1) Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

- c. Whether the individual required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

131.11(2) Issuance of order.

- a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.
- b. The written emergency adjudicative order shall be immediately delivered to the individual who is required to comply with the order. Delivery shall be made by one or more of the following procedures:
 - (1) Personal delivery.
 - (2) Certified mail, return receipt requested, to the last address on file with the department.
 - (3) Fax. Fax may be used as the sole method of delivery if the individual required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.
- c. To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.
- d. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the individual who is required to comply with the order.
- e. After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.
- f. Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the individual that is required to comply with the order is the party requesting the continuance.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

641—131.12(147A) Complaints, investigations and appeals.

131.12(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

131.12(2) All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same, shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075.

131.12(3) An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

131.12(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

131.12(5) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

131.12(6) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be affected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

131.12(7) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

131.12(8) Upon receipt of a request for hearing, the department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

131.12(9) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

131.12(10) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 131.12(11).

131.12(11) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

131.12(12) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings on them.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

131.12(13) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

131.12(14) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

131.12(15) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075.

131.12(16) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

131.12(17) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

[ARC 9443B, IAB 4/6/11, effective 8/1/11]

These rules are intended to implement Iowa Code chapter 147A.

[Filed 1/20/00, Notice 12/1/99—published 2/9/00, effective 3/15/00]

[Filed emergency 9/14/00—published 10/4/00, effective 9/14/00]

[Filed 1/10/02, Notice 11/28/01—published 2/6/02, effective 3/13/02]

[Filed 1/13/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]

[Filed emergency 7/13/05 after Notice 6/8/05—published 8/3/05, effective 7/13/05]

[Filed 7/12/06, Notice 5/24/06—published 8/2/06, effective 9/6/06]

[Filed emergency 11/8/06—published 12/6/06, effective 1/1/07]

[Filed 1/10/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]

[Filed 7/13/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]

[Filed 5/14/08, Notice 3/26/08—published 6/4/08, effective 7/9/08]

[Filed 11/12/08, Notice 9/24/08—published 12/3/08, effective 1/7/09]

[Filed ARC 8230B (Notice ARC 7969B, IAB 7/15/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 8660B (Notice ARC 8497B, IAB 1/27/10), IAB 4/7/10, effective 5/12/10]

[Filed ARC 9443B (Notice ARC 9342B, IAB 1/26/11), IAB 4/6/11, effective 8/1/11]

[Filed ARC 0062C (Notice ARC 0002C, IAB 2/8/12), IAB 4/4/12, effective 5/9/12]

[Filed ARC 0480C (Notice ARC 0377C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1404C (Notice ARC 1292C, IAB 1/22/14), IAB 4/2/14, effective 5/7/14]

[Filed ARC 2277C (Notice ARC 2150C, IAB 9/16/15), IAB 12/9/15, effective 1/13/16]

CHAPTER 132
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

[Joint Rules pursuant to 147A.4]

[Prior to 7/29/87, Health Department[470] Ch 132]

641—132.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

“Advanced emergency medical technician” or *“AEMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the National Registry of Emergency Medical Technicians (NREMT) practical and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

“Ambulance” means any privately or publicly owned ground vehicle specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated.

“Ambulance service” means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation and emergency medical services.

“Automated defibrillator” means any external semiautomatic device that determines whether defibrillation is required.

“Automated external defibrillator” or *“AED”* means an external semiautomated device that determines whether defibrillation is required.

“CEH” means “continuing education hour” which is based upon a minimum of 50 minutes of training per hour.

“Continuous quality improvement (CQI)” means a program that is an ongoing process to monitor standards at all EMS operational levels including the structure, process, and outcomes of the patient care event.

“CPR” means training and successful course completion in cardiopulmonary resuscitation, AED and obstructed airway procedures for all age groups according to recognized national standards.

“Critical care paramedic” or *“CCP”* means a currently certified paramedic specialist or paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“Critical care transport” or *“CCT”* means specialty care patient transportation, when medically necessary for a critically ill or injured patient needing critical care paramedic skills, provided by an authorized ambulance service that is approved by the department to provide critical care transportation and staffed by one or more critical care paramedics or other health care professional in an appropriate specialty area.

“Current course completion” means written recognition given for training and successful course completion of CPR with an expiration date or a recommended renewal date that exceeds the current date.

“Deficiency” means noncompliance with Iowa Code chapter 147A or these rules.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Direct supervision” means services provided by an EMS provider in a hospital setting or other health care entity in which health care is ordinarily performed when in the personal presence of a physician or under the direction of a physician who is immediately available or under the direction of a physician assistant or registered nurse who is immediately available and is acting consistent with adopted policies and protocols of a hospital or other health care entity.

“Emergency medical care” means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by protocol.
5. Any medical procedure authorized by 641—subrule 131.3(3).

“Emergency medical care provider” means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic or other certification levels recognized by the department before 2011 and who has been issued a certificate by the department.

“Emergency medical responder” or *“EMR”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Responder Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

“Emergency medical services” or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

“Emergency medical technician” or *“EMT”* means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Emergency Medical Technician Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

“Emergency medical technician-basic (EMT-B)” means an individual who has successfully completed the current United States Department of Transportation’s Emergency Medical Technician-Basic curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-B.

“Emergency medical technician-intermediate (EMT-I)” means an individual who has successfully completed an EMT-intermediate curriculum approved by the department, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-I.

“Emergency medical technician-paramedic” or *“EMT-P”* means an individual who has successfully completed the United States Department of Transportation’s EMT-Intermediate (1999) or the 1985 or earlier DOT EMT-P curriculum, has passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-P.

“Emergency medical transportation” means the transportation, by ambulance, of sick, injured or otherwise incapacitated persons who require emergency medical care.

“EMS advisory council” means a council appointed by the director to advise the director and develop policy recommendations concerning regulation, administration, and coordination of emergency medical services in the state.

“EMS contingency plan” means an agreement or dispatching policy between two or more ambulance service programs that addresses how and under what circumstances patient transportation will be provided in a given service area when coverage is not possible due to unforeseen circumstances.

“EMS system” is any specific arrangement of emergency medical personnel, equipment, and supplies designed to function in a coordinated fashion.

“Endorsement” means an approval granted by the department authorizing an individual to serve as an EMS-I, EMS-E or CCP.

“First responder (FR)” means an individual who has successfully completed the current United States Department of Transportation’s First Responder curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an FR.

“First response vehicle” means any privately or publicly owned vehicle which is used solely for the transportation of emergency medical care personnel and equipment to and from the scene of a medical or nonmedical emergency.

“Hospital” means any hospital licensed under the provisions of Iowa Code chapter 135B.

“Inclusion criteria” means criteria determined by the department and adopted by reference to determine which patients are to be included in the Iowa EMS service program registry or the trauma registry.

“Intermediate” means an emergency medical technician-intermediate.

“Iowa EMS Patient Registry Data Dictionary” means reportable data elements for all ambulance service responses and definitions determined by the department and adopted by reference.

“Medical direction” means direction, advice, or orders provided by a medical director, supervising physician, or physician designee (in accordance with written parameters and protocols) to emergency medical care personnel.

“Medical director” means any physician licensed under Iowa Code chapter 148, 150, or 150A who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

“Mutual aid” means an agreement, preferably in writing, between two or more services that addresses how and under what circumstances each service will respond to a request for assistance in situations that exhaust available resources.

“Nonemergency transportation” means transportation that may be provided for those persons determined to need transportation only.

“Nontransport service” means any privately or publicly owned rescue or first response service program which does not provide patient transportation (except when no ambulance is available or in a disaster situation) and utilizes only rescue or first response vehicles to provide emergency medical care at the scene of an emergency.

“Off-line medical direction” means the monitoring of EMS providers through retrospective field assessments and treatment documentation review, critiques of selected cases with the EMS personnel, and statistical review of the system.

“On-line medical direction” means immediate medical direction provided directly to service program EMS providers, in accordance with written parameters and protocols, by the medical director, supervising physician or physician designee either on-scene or by any telecommunications system.

“Paramedic” means an individual who has successfully completed a course of study based on the United States Department of Transportation’s Paramedic Instructional Guidelines (January 2009), has passed the NREMT practical and cognitive examinations for the paramedic, and is currently certified by the department as a paramedic.

“Paramedic specialist (PS)” means an individual who has successfully completed the current United States Department of Transportation’s EMT-Paramedic curriculum or equivalent, passed the department’s approved written and practical examinations, and is currently certified by the department as a paramedic specialist.

“Patient” means any individual who is sick, injured, or otherwise incapacitated.

“Patient care report (PCR)” means a computerized or written report that documents the assessment and management of the patient by the emergency care provider in the out-of-hospital setting.

“Physician” means any individual licensed under Iowa Code chapter 148, 150, or 150A.

“Physician assistant (PA)” means an individual licensed pursuant to Iowa Code chapter 148C.

“Physician designee” means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistant examiners. The physician designee acts as an intermediary for a supervising physician in accordance with written policies and protocols in directing the care provided by emergency medical care providers.

“Preceptor” means an individual who has been assigned by the training program, clinical facility or service program to supervise students while the students are completing their clinical or field experience. A preceptor must be an emergency medical care provider certified at the level being supervised or higher, or must be licensed as a registered nurse, physician’s assistant or physician.

“Protocols” means written directions and orders, consistent with the department’s standard of care, that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols must be approved by the service program’s medical director and address the care of both adult and pediatric patients.

“Registered nurse (RN)” means an individual licensed pursuant to Iowa Code chapter 152.

“Reportable patient data” means data elements and definitions determined by the department and adopted by reference to be reported to the Iowa EMS service program registry or the trauma registry or a trauma care facility on patients meeting the inclusion criteria.

“Rescue vehicle” means any privately or publicly owned vehicle which is specifically designed, modified, constructed, equipped, staffed and used regularly for rescue or extrication purposes at the scene of a medical or nonmedical emergency.

“Service director” means an individual who is responsible for the operation and administration of a service program.

“Service program” or *“service”* means any medical care ambulance service or nontransport service that has received authorization by the department.

“Service program area” means the geographic area of responsibility served by any given ambulance or nontransport service program.

“Student” means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portions.

“Supervising physician” means any physician licensed under Iowa Code chapter 148, 150, or 150A. The supervising physician is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

“Tiered response” means a rendezvous of service programs to allow the transfer of patient care.

“Training program” means an NCA-approved Iowa college, the Iowa law enforcement academy or an Iowa hospital approved by the department to conduct emergency medical care training.

“Transport agreement” means a written agreement between two or more service programs that specifies the duties and responsibilities of the agreeing parties to ensure appropriate transportation of patients in a given service area.

[ARC 8661B, IAB 4/7/10, effective 5/12/10; ARC 9357B, IAB 2/9/11, effective 3/16/11; ARC 0063C, IAB 4/4/12, effective 5/9/12]

641—132.2(147A) Authority of emergency medical care provider.

132.2(1) Rescinded IAB 2/7/01, effective 3/14/01.

132.2(2) An emergency medical care provider who holds an active certification issued by the department may:

a. Render via on-line medical direction emergency and nonemergency medical care in those areas for which the emergency medical care provider is certified, as part of an authorized service program:

- (1) At the scene of an emergency;
- (2) During transportation to a hospital;
- (3) While in the hospital emergency department;
- (4) Until patient care is directly assumed by a physician or by authorized hospital personnel; and
- (5) During transfer from one medical care facility to another or to a private home.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when under the direct supervision of a physician when:

- (1) Enrolled as a student in and approved by a training program;
- (2) Fulfilling continuing education requirements;
- (3) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider’s certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care personnel may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient’s life;

(4) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or

registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

132.2(3) When emergency medical care personnel are functioning in a capacity identified in subrule 132.2(2), paragraph “a,” they may perform emergency and nonemergency medical care without contacting a supervising physician or physician designee if written protocols have been approved by the service program medical director which clearly identify when the protocols may be used in lieu of voice contact.

132.2(4) Scope of practice.

a. Emergency medical care providers shall provide only those services and procedures as are authorized within the scope of practice for which they are certified.

b. Scope of Practice for Iowa EMS Providers (April 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

c. The department may grant a variance for changes to the Scope of Practice that have not yet been adopted by these rules. A variance to these rules may be granted by the department pursuant to 132.14(1).

d. Scope of Practice for Iowa EMS Providers is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

132.2(5) The department may approve other emergency medical care skills on a limited pilot project basis. Requests for a pilot project application shall be made to the department.

132.2(6) An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

[ARC 8230B, IAB 10/7/09, effective 11/11/09; ARC 0063C, IAB 4/4/12, effective 5/9/12; ARC 0480C, IAB 12/12/12, effective 1/16/13; ARC 1404C, IAB 4/2/14, effective 5/7/14; ARC 2278C, IAB 12/9/15, effective 1/13/16]

641—132.3(147A) Emergency medical care providers—requirements for enrollment in training programs. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.4(147A) Emergency medical care providers—certification, renewal standards and procedures, and fees. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.5(147A) Training programs—standards, application, inspection and approval. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.6(147A) Continuing education providers—approval, record keeping and inspection. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization.

132.7(1) General requirements for authorization and renewal of authorization.

a. An ambulance or nontransport service in this state that desires to provide emergency medical care, in the out-of-hospital setting, shall apply to the department for authorization to establish a program utilizing certified emergency medical care providers for delivery of care at the scene of an emergency or nonemergency, during transportation to a hospital, during transfer from one medical care facility to another or to a private home, or while in the hospital emergency department and until care is directly assumed by a physician or by authorized hospital personnel. Application for authorization shall be made on forms provided by the department. Applicants shall complete and submit the forms to the department at least 30 days prior to the anticipated date of authorization.

b. To renew service program authorization, the service program shall continue to meet the requirements of Iowa Code chapter 147A and these rules. The renewal application shall be completed and submitted to the department at least 30 days before the current authorization expires.

c. Applications for authorization and renewal of authorization may be obtained upon request to: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

d. The department shall approve an application when the department is satisfied that the program proposed by the application will be operated in compliance with Iowa Code chapter 147A and these administrative rules.

e. Service program authorization is valid for a period of three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked.

f. Service programs shall be fully operational upon the effective date and at the level specified on the certificate of authorization and shall meet all applicable requirements of Iowa Code chapter 147A and these rules. Deficiencies that are identified shall be corrected within a time frame determined by the department.

g. The certificate of authorization shall be issued to the service program based in the city named in the application. Any ambulance service or nontransport service that operates from more than one city shall apply for and, if approved, shall receive an inclusive authorization for each city of operation that is listed in the application.

h. Any service program owner in possession of a certificate of authorization as a result of transfer or assignment shall continue to meet all applicable requirements of Iowa Code chapter 147A and these rules. In addition, the new owner shall apply to the department for a new certificate of authorization within 30 days following the effective date of the transfer or assignment.

i. Service programs that acquire and maintain current status with a nationally recognized EMS service program accreditation entity that meets or exceeds Iowa requirements may be exempted from the service application/inspection process. A copy of the state service application and accreditation inspection must be filed with the department for approval.

132.7(2) Out-of-state service programs.

a. Service programs located in other states which wish to provide emergency medical care in Iowa must meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department except when:

- (1) Transporting patients from locations within Iowa to destinations outside of Iowa;
- (2) Transporting patients from locations outside of Iowa to destinations within Iowa;
- (3) Transporting patients to or from locations outside of Iowa that requires travel through Iowa;
- (4) Responding to a request for mutual aid in this state; or
- (5) Making an occasional EMS response to locations within Iowa and then transporting the patients to destinations within Iowa.

b. An out-of-state service program that meets any of the exception criteria established in 132.7(2) shall be authorized to provide emergency medical care by the state in which the program resides and shall provide the department with verification of current state authorization upon request.

132.7(3) Air ambulances. Rescinded IAB 4/7/10, effective 5/12/10.

132.7(4) Service program inspections.

a. The department shall inspect each service program at least once every three years. The department without prior notification may make additional inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

b. The department may request additional information from or may inspect the records of any service program which is currently authorized or which is seeking authorization to ensure continued compliance or to verify the validity of any information presented on the application for service program authorization.

c. The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.

d. No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.

e. Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action in reference to service program authorization.

132.7(5) Temporary service program authorization.

a. A temporary service program authorization may be issued to services that wish to operate during special events that may need emergency medical care coverage. Temporary authorization is valid for a period of 30 days unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked. Temporary authorization shall apply to those requirements and standards for which the department is responsible. Applicants shall complete and submit the necessary forms to the department at least 30 days prior to the anticipated date of need.

b. The service shall meet applicable requirement of these rules, but may apply for a variance using the criteria outlined in rule 641—132.14(147A).

c. The service shall submit a justification which demonstrates the need for the temporary service program authorization.

d. The service shall submit a report, to the department, within 30 days after the expiration of the temporary authorization which includes as a minimum:

- (1) Number of patients treated;
- (2) Types of treatment rendered;
- (3) Any operational or medical problems.

132.7(6) Conditional service program authorization. Rescinded IAB 2/6/02, effective 3/13/02.
[ARC 8661B, IAB 4/7/10, effective 5/12/10; ARC 9357B, IAB 2/9/11, effective 3/16/11]

641—132.8(147A) Service program levels of care and staffing standards.

132.8(1) A service program seeking ambulance authorization shall:

a. Apply for authorization at one of the following levels:

- (1) EMT-B/EMT.
- (2) EMT-I.
- (3) AEMT.
- (4) EMT-P.
- (5) PS/Paramedic.

b. Maintain an adequate number of ambulances and personnel to provide 24-hour-per-day, 7-day-per-week coverage. Ambulances shall comply with paragraph 132.8(1)“d.” The number of ambulances and personnel to be maintained shall be determined by the department, and shall be based upon, but not limited to, the following:

- (1) Number of calls;
- (2) Service area and population; and
- (3) Availability of other services in the area.

c. Provide as a minimum, on each ambulance call, the following staff:

- (1) One currently certified EMT-B or EMT.
- (2) One currently licensed driver. The service shall document each driver’s training in CPR (AED training not required), in emergency driving techniques and in the use of the service’s communications equipment. Training in emergency driving techniques shall include:

1. A review of Iowa laws regarding emergency vehicle operations.
2. A review of the service program’s driving policy for first response vehicles, ambulances, rescue vehicles or personal vehicles of an emergency medical care provider responding as a member of the service. The policy shall include, at a minimum:

- Frequency and content of driver’s training requirements.
- Criteria for response with lights or sirens or both.
- Speed limits when responding with lights or sirens or both.
- Procedure of approaching intersections with lights or sirens or both.
- Notification process in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle of an emergency medical care provider responding as a member of the service.

3. Behind-the-wheel driving of the service’s first response vehicles, ambulances and rescue vehicles.

- d.* Submit an EMS contingency plan that will be put into operation when coverage pursuant to the 24/7 rule in paragraph 132.8(1) “*b*” is not possible due to unforeseen circumstances.
- e.* Report frequency of use of the contingency plan to the department upon request.
- f.* Seek approval from the department to provide nontransport coverage in addition to or in lieu of ambulance authorization.
- g.* Advertise or otherwise imply or hold itself out to the public as an authorized ambulance service only to the level of care maintained 24 hours per day, seven days a week.
- h.* Apply to the department to receive approval to provide critical care transportation based upon appropriately trained staff and approved equipment.
- i.* Unless otherwise established by protocol approved by the medical director, the emergency medical care provider with the highest level of certification (on the transporting service) shall attend the patient.

132.8(2) A service program seeking nontransport authorization shall:

- a.* Apply for authorization at one of the following levels:
 - (1) First responder/EMR.
 - (2) EMT-B/EMT.
 - (3) EMT-I.
 - (4) AEMT.
 - (5) EMT-P.
 - (6) PS/Paramedic.
- b.* For staffing purposes provide, as a minimum, a transport agreement.
- c.* Advertise or otherwise hold itself out to the public as an authorized nontransport service program only to the level of care maintained 24 hours per day, seven days a week.
- d.* Not be prohibited from transporting patients in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

132.8(3) Service program operational requirements. Ambulance and nontransport service programs shall:

- a.* Complete and maintain a patient care report concerning the care provided to each patient. Ambulance services shall provide, at a minimum, a PCR verbal report upon delivery of a patient to a receiving facility and shall provide a complete PCR within 24 hours to the receiving facility.
- b.* Utilize department protocols as the standard of care. The service program medical director may make changes to the department protocols provided the changes are within the EMS provider’s scope of practice and within acceptable medical practice. A copy of the changes shall be filed with the department.
- c.* Ensure that personnel duties are consistent with the level of certification and the service program’s level of authorization.
- d.* Maintain current personnel rosters and personnel files. The files shall include the names and addresses of all personnel and documentation that verifies EMS provider credentials including, but not limited to:
 - (1) Current provider level certification.
 - (2) Current course completions/certifications/endorsements as may be required by the medical director.
 - (3) PA and RN exception forms for appropriate personnel and verification that PA and RN personnel have completed the appropriate EMS level continuing education.
- e.* If requested by the department, notify the department in writing of any changes in personnel rosters.
- f.* Have a medical director and 24-hour-per-day, 7-day-per-week on-line medical direction available.
- g.* Ensure that the appropriate service program personnel respond as required in this rule and that they respond in a reasonable amount of time.
- h.* Notify the department in writing within seven days of any change in service director or ownership or control or of any reduction or discontinuance of operations.

i. Select a new or temporary medical director if for any reason the current medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current medical director relinquishes the duties and responsibilities of that position.

j. Within seven days of any change of medical director, notify the department in writing of the selection of the new or temporary medical director who must have indicated in writing a willingness to serve in that capacity.

k. Not prevent a registered nurse or physician assistant from supplementing the staffing of an authorized service program provided equivalent training is documented pursuant to Iowa Code sections 147A.12 and 147A.13.

l. Not be authorized to utilize a manual defibrillator (except paramedic, paramedic specialist).

m. Implement a continuous quality improvement program that provides a policy to include as a minimum:

- (1) Medical audits.
- (2) Skills competency.
- (3) Follow-up (loop closure/resolution).

n. Require physician assistants and registered nurses providing care pursuant to Iowa Code sections 147A.12 and 147A.13 to meet CEH requirements approved by the medical director.

o. Document an equipment maintenance program to ensure proper working condition and appropriate quantities.

p. Ensure a response to requests for assistance when dispatched by a public safety answering point within the primary service area identified in the service program's authorization application.

q. Submit reportable patient data identified in subrule 132.8(7) via electronic transfer. Data shall be submitted in a format approved by the department.

r. Submit reportable patient data identified in subrule 132.8(7) to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter.

132.8(4) Equipment and vehicle standards. The following standards shall apply:

a. Ambulances placed into service after July 1, 2002, shall meet, as a minimum, the National Truck and Equipment Association's Ambulance Manufacture Division (AMD) performance specifications.

b. All EMS service programs shall carry equipment and supplies in quantities as determined by the medical director and appropriate to the service program's level of care and available certified EMS personnel and as established in the service program's approved protocols.

c. Pharmaceutical drugs and over-the-counter drugs may be carried and administered upon completion of training and pursuant to the service program's established protocols approved by the medical director.

d. All drugs shall be maintained in accordance with the rules of the state board of pharmacy examiners.

e. Accountability for drug exchange, distribution, storage, ownership, and security shall be subject to applicable state and federal requirements. The method of accountability shall be described in the written pharmacy agreement. A copy of the written pharmacy agreement shall be submitted to the department.

f. Each ambulance service program shall maintain a telecommunications system between the emergency medical care provider and the source of the service program's medical direction and other appropriate entities. Nontransport service programs shall maintain a telecommunications system between the emergency medical care provider and the responding ambulance service and other appropriate entities.

g. All telecommunications shall be conducted in an appropriate manner and on a frequency approved by the Federal Communications Commission and the department.

132.8(5) Preventative maintenance. Each ambulance service program shall document a preventative maintenance program to make certain that:

- a.* Vehicles are fully equipped and maintained in a safe operating condition. In addition:

(1) All ground ambulances shall be housed in a garage or other facility that prevents engine, equipment and supply freeze-up and windshield icing. An unobstructed exit to the street shall also be maintained;

(2) The garage or other facility shall be adequately heated or each response vehicle shall have permanently installed auxiliary heating units to sufficiently heat the engine and patient compartment; and

(3) The garage or other facility shall be maintained in a clean, safe condition free of debris or other hazards.

b. The exterior and interior of the vehicles are kept clean. The interior and equipment shall be cleaned after each use as necessary. When a patient with a communicable disease has been transported or treated, the interior and any equipment or nondisposable supplies coming in contact with the patient shall be thoroughly disinfected.

c. All equipment stored in a patient compartment is secured so that, in the event of a sudden stop or movement of the vehicle, the patient and service program personnel are not injured by moving equipment.

d. All airway, electrical and mechanical equipment is kept clean and in proper operating condition.

e. Compartments provided within the vehicles and the medical and other supplies stored therein are kept in a clean and sanitary condition.

f. All linens, airway and oxygen equipment or any other supplies or equipment coming in direct patient contact is of a single-use disposable type or cleaned, laundered or disinfected prior to reuse.

g. Freshly laundered blankets and linen or disposable linens are used on cots and pillows and are changed after each use.

h. Proper storage is provided for clean linen.

i. Soiled supplies shall be appropriately disposed of according to current biohazard practices.

132.8(6) Service program—incident and accident reports.

a. Incidents of fire or other destructive or damaging occurrences or theft of a service program ambulance, equipment, or drugs shall be reported to the department within 48 hours following the occurrence of the incident.

b. A copy of the motor vehicle accident report required under Iowa Code subsection 321.266(2), relating to the reporting of an accident resulting in personal injury, death or property damage, shall be submitted to the department within seven days following an accident involving a service program vehicle.

c. A service program must report the termination of an emergency medical care provider due to negligence, professional incompetency, unethical conduct or substance use to the department within ten days following the termination.

132.8(7) Adoption by reference. The Iowa EMS Patient Registry Data Dictionary identified in 641—paragraph 136.2(1)“c” is adopted and incorporated by reference for inclusion criteria and reportable patient data. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

a. The Iowa EMS Patient Registry Data Dictionary identified in 641—paragraph 136.2(1)“c” is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the EMS bureau Web site (www.idph.state.ia.us/ems).

b. The department shall prepare compilations for release or dissemination on all reportable patient data entered into the EMS service program registry during the reporting period. The compilations shall include, but not be limited to, trends and patient care outcomes for local, regional, and statewide evaluations. The compilations shall be made available to all service programs submitting reportable patient data to the registry.

c. Access and release of reportable patient data and information.

(1) The data collected by and furnished to the department pursuant to this subrule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7, subsection 2. However, information

which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

(2) The department may approve requests for reportable patient data for special studies and analysis provided the request has been reviewed and approved by the deputy director of the department with respect to the scientific merit and confidentiality safeguards, and the department has given administrative approval for the proposal. The confidentiality of patients and the EMS service program shall be protected.

(3) The department may require entities requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

d. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

e. Quality assurance.

(1) For the purpose of ensuring the completeness and quality of reportable patient data, the department or authorized representative may examine all or part of the patient care report as necessary to verify or clarify all reportable patient data submitted by a service program.

(2) Review of a patient care report by the department shall be scheduled in advance with the service program and completed in a timely manner.

f. The director, pursuant to Iowa Code section 147A.4, may grant a variance from the requirements of these rules for any service program, provided that the variance is related to undue hardships in complying with this chapter.

132.8(8) The patient care report is a confidential document and shall be exempt from disclosure pursuant to Iowa Code subsection 22.7(2) and shall not be accessible to the general public. Information contained in these reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner which prevents the identification of any patient or person named in these reports.

132.8(9) Implementation. The director may grant exceptions and variances from the requirements of this chapter for any ambulance or nontransport service. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this chapter. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to Iowa Code chapter 147A.

[**ARC 8661B**, IAB 4/7/10, effective 5/12/10; **ARC 9357B**, IAB 2/9/11, effective 3/16/11; **ARC 9444B**, IAB 4/6/11, effective 5/11/11; **ARC 0063C**, IAB 4/4/12, effective 5/9/12]

641—132.9(147A) Service program—off-line medical direction.

132.9(1) The medical director shall be responsible for providing appropriate medical direction and overall supervision of the medical aspects of the service program and shall ensure that those duties and responsibilities are not relinquished before a new or temporary replacement is functioning in that capacity.

132.9(2) The medical director's duties include, but need not be limited to:

a. Developing, approving and updating protocols to be used by service program personnel that meet or exceed the minimum standard protocols developed by the department.

b. Developing and maintaining liaisons between the service, other physicians, physician designees, hospitals, and the medical community served by the service program.

c. Monitoring and evaluating the activities of the service program and individual personnel performance, including establishment of measurable outcomes that reflect the goals and standards of the EMS system.

d. Assessing the continuing education needs of the service and individual service program personnel and assisting them in the planning of appropriate continuing education programs.

e. Being available for individual evaluation and consultation to service program personnel.

f. Performing or appointing a designee to complete the medical audits required in subrule 132.9(4).

g. Developing and approving an applicable continuous quality improvement policy demonstrating type and frequency of review, including an action plan and follow-up.

h. Informing the medical community of the emergency medical care being provided according to approved protocols in the service program area.

i. Helping to resolve service operational problems.

j. Approving or removing an individual from service program participation.

132.9(3) Supervising physicians, physician designees, or other appointees as defined in the continuous quality improvement policy referenced in 132.9(2) “g” may assist the medical director by:

a. Providing medical direction.

b. Reviewing the emergency medical care provided.

c. Reviewing and updating protocols.

d. Providing and assessing continuing education needs for service program personnel.

e. Helping to resolve operational problems.

132.9(4) The medical director or other qualified designees shall randomly audit (at least quarterly) documentation of calls where emergency medical care was provided. The medical director shall randomly review audits performed by the qualified appointee. The audit shall be in writing and shall include, but need not be limited to:

a. Reviewing the patient care provided by service program personnel and remedying any deficiencies or potential deficiencies that may be identified regarding medical knowledge or skill performance.

b. Response time and time spent at the scene.

c. Overall EMS system response to ensure that the patient’s needs were matched to available resources including, but not limited to, mutual aid and tiered response.

d. Completeness of documentation.

132.9(5) Rescinded IAB 2/6/02, effective 3/13/02.

132.9(6) On-line medical direction when provided through a hospital.

a. The medical director shall designate in writing at least one hospital which has established a written on-line medical direction agreement with the department. It shall be the medical director’s responsibility to notify the department in writing of changes regarding this designation.

b. Hospitals signing an on-line medical direction agreement shall:

(1) Ensure that the supervising physicians or physician designees will be available to provide on-line medical direction via telecommunications on a 24-hour-per-day basis.

(2) Identify the service programs for which on-line medical direction will be provided.

(3) Establish written protocols for use by supervising physicians and physician designees who provide on-line medical direction.

(4) Administer a quality assurance program to review orders given. The program shall include a mechanism for the hospital and service program medical directors to discuss and resolve any identified problems.

c. A hospital which has a written medical direction agreement with the department may provide medical direction for any or all service program authorization levels and may also agree to provide backup on-line medical direction for any other service program when that service program is unable to contact its primary source of on-line medical direction.

d. Only supervising physicians or physician designees shall provide on-line medical direction. A physician assistant, registered nurse or emergency medical care provider (of equal or higher level) may relay orders to emergency medical care personnel, without modification, from a supervising physician. A physician designee may not deviate from approved protocols.

e. The hospital shall provide, upon request to the department, a list of supervising physicians and physician designees providing on-line medical direction.

f. Rescinded IAB 2/6/02, effective 3/13/02.

g. The department may verify a hospital’s communications system to ensure compliance with the on-line medical direction agreement.

h. A supervising physician or physician designee who gives orders (directly or via communications equipment from some other point) to an emergency medical care provider is not subject

to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.

i. Nothing in these rules requires or obligates a hospital, supervising physician or physician designee to approve requests for orders received from emergency medical care personnel.

NOTE: Hospitals in other states may participate provided the applicable requirements of this subrule are met.

[ARC 0063C, IAB 4/4/12, effective 5/9/12]

641—132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.

132.10(1) All complaints regarding the operation of authorized emergency medical care service programs, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

132.10(2) Complaints and the investigative process will be treated as confidential in accordance with Iowa Code section 22.7.

132.10(3) Service program authorization may be denied, issued a civil penalty not to exceed \$1000, issued a citation and warning, placed on probation, suspended, revoked, or otherwise disciplined by the department in accordance with Iowa Code subsection 147A.5(3) for any of the following reasons:

- a.* Knowingly allowing the falsifying of a patient care report (PCR).
- b.* Failure to submit required reports and documents.
- c.* Delegating professional responsibility to a person when the service program knows that the person is not qualified by training, education, experience or certification to perform the required duties.
- d.* Practicing, condoning, or facilitating discrimination against a patient, student or employee based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability diagnosis, or social or economic status.
- e.* Knowingly allowing sexual harassment of a patient, student or employee. Sexual harassment includes sexual advances, sexual solicitations, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- f.* Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.
- g.* Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means or misrepresentation or by submitting false information.
- h.* Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.
- i.* Failure to correct a deficiency within the time frame required by the department.

132.10(4) The department shall notify the applicant of the granting or denial of authorization or renewal, or shall notify the alleged violator of action to issue a citation and warning, place on probation or suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a denial, citation and warning, probation, suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

132.10(5) Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request

for appeal is received within the 20-day time period, the department's notice of denial, probation, suspension or revocation shall become the department's final agency action.

132.10(6) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

132.10(7) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

132.10(8) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 132.10(9).

132.10(9) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

132.10(10) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections, and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

132.10(11) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

132.10(12) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

132.10(13) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Bureau of Emergency Medical Services, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

132.10(14) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

132.10(15) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

132.10(16) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

132.10(17) Emergency adjudicative proceedings.

a. Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

b. Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

- (1) Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;
- (2) Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- (3) Whether the program required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- (4) Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- (5) Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

c. Issuance of order.

(1) An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

(2) The written emergency adjudicative order shall be immediately delivered to the service program that is required to comply with the order by utilizing one or more of the following procedures:

1. Personal delivery.
2. Certified mail, return receipt requested, to the last address on file with the department.
3. Fax. Fax may be used as the sole method of delivery if the service program required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

(3) To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

(4) Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the service program that is required to comply with the order.

(5) After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the service program that is required to comply with the order is the party requesting the continuance.

[ARC 8661B, IAB 4/7/10, effective 5/12/10]

641—132.11(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.12(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program or continuing education provider approval or renewal. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.13(147A) Complaints, investigations and appeals. Rescinded IAB 2/9/00, effective 3/15/00.

641—132.14(147A) Temporary variances.

132.14(1) If during a period of authorization there is some occurrence that temporarily causes a service program to be in noncompliance with these rules, the department may grant a temporary variance. Temporary variances to these rules (not to exceed six months in length per any approved request) may be

granted by the department to a currently authorized service program. Requests for temporary variances shall apply only to the service program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

132.14(2) To request a variance, the service program shall:

a. Notify the department verbally (as soon as possible) of the need to request a temporary variance. Submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary variance request. The address and telephone number are Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075; (515)725-0326.

b. Cite the rule from which the variance is requested.

c. State why compliance with the rule cannot be maintained.

d. Explain the alternative arrangements that have been or will be made regarding the variance request.

e. Estimate the period of time for which the variance will be needed.

f. Rescinded IAB 2/2/05, effective 3/9/05.

132.14(3) Upon notification of a request for variance, the department shall take into consideration, but shall not be limited to:

a. Examining the rule from which the temporary variance is requested to determine if the request is appropriate and reasonable.

b. Evaluating the alternative arrangements that have been or will be made regarding the variance request.

c. Examining the effect of the requested variance upon the level of care provided to the general populace served.

d. Requesting additional information if necessary.

132.14(4) Preliminary approval or denial shall be provided verbally within 24 hours. Final approval or denial shall be issued in writing within ten days after having received the written explanation for the temporary variance request and shall include the reason for approval or denial. If approval is granted, the effective date and the duration of the temporary variance shall be clearly stated.

132.14(5) Rescinded, effective July 10, 1987.

132.14(6) Any request for appeal concerning the denial of a request for temporary variance shall be in accordance with the procedures outlined in rule 641—132.10(147A).

132.14(7) Rescinded IAB 2/3/93, effective 3/10/93.

641—132.15(147A) Transport options for fully authorized EMT-P, PS, and paramedic service programs.

132.15(1) Upon responding to an emergency call, ambulance or nontransport EMT-P, PS, and paramedic level services may make a determination at the scene as to whether emergency medical transportation or nonemergency transportation is needed. The determination shall be made by an EMT-P, paramedic or paramedic specialist and shall be based upon the nonemergency transportation protocol approved by the service program's medical director. When applying this protocol, the following criteria, as a minimum, shall be used to determine the appropriate transport option:

a. Primary assessment,

b. Focused history and physical examination,

c. Chief complaint,

d. Name, address and age, and

e. Nature of the call for assistance.

Emergency medical transportation shall be provided whenever any of the above criteria indicate that treatment should be initiated.

132.15(2) If treatment is not indicated, the service program may make arrangements for nonemergency transportation. If arrangements are made, the service program shall remain at the scene

until nonemergency transportation arrives. During the wait for nonemergency transportation, however, the ambulance or nontransport service may respond to an emergency.

[ARC 0063C, IAB 4/4/12, effective 5/9/12]

641—132.16(147A) Public access defibrillation. Rescinded IAB 2/2/05, effective 3/9/05.

These rules are intended to implement Iowa Code chapter 147A.

- [Filed 5/11/79, Notice 4/4/79—published 5/30/79, effective 7/5/79]
- [Filed emergency 3/27/81—published 4/15/81, effective 3/27/81]
- [Filed without Notice 5/21/81—published 6/10/81, effective 7/15/81]
- [Filed emergency 7/15/81—published 8/5/81, effective 7/15/81]
- [Filed emergency 2/4/82—published 3/3/82, effective 3/1/82]
- [Filed 10/27/82, Notice 9/1/82—published 11/24/82, effective 12/29/82]
- [Filed emergency 12/16/82—published 1/5/83, effective 12/30/82]
- [Filed emergency 9/20/83—published 10/12/83, effective 9/21/83]
- [Filed 9/15/83, Notice 7/6/83—published 10/12/83, effective 11/16/83]
- [Filed emergency 12/26/84—published 1/16/85, effective 12/31/84]
- [Filed emergency after Notice 5/8/85, Notice 3/27/85—published 6/5/85, effective 5/17/85]
- [Filed emergency 9/11/85—published 10/9/85, effective 9/11/85]
- [Filed emergency 12/24/85—published 1/15/86, effective 12/31/85]
- [Filed 5/30/86, Notice 3/26/86—published 6/18/86, effective 7/23/86]
- [Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]¹
- [Filed 8/28/86, Notice 4/9/86—published 9/24/86, effective 10/29/86]
- [Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
- [Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]
- [Filed 7/10/87, Notice 2/11/87—published 7/29/87, effective 9/2/87]
- [Filed emergency 1/30/89—published 2/22/89, effective 1/31/89]
- [Filed emergency 5/10/89—published 5/31/89, effective 5/12/89]
- [Filed 9/14/89, Notice 6/28/89—published 10/4/89, effective 11/8/89]
- [Filed 6/22/90, Notice 4/18/90—published 7/11/90, effective 8/15/90]
- [Filed 3/13/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
- [Filed 1/15/93, Notice 9/30/92—published 2/3/93, effective 3/10/93]
- [Filed 1/14/94, Notice 10/13/93—published 2/2/94, effective 3/9/94]
- [Filed 9/20/95, Notice 8/2/95—published 10/11/95, effective 11/15/95]
- [Filed 7/10/96, Notice 6/5/96—published 7/31/96, effective 9/4/96]
- [Filed 9/16/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]
- [Filed emergency 1/23/98—published 2/11/98, effective 1/23/98]
- [Filed 2/26/98, Notice 9/10/97—published 3/25/98, effective 4/29/98]
- [Filed 3/18/98, Notice 1/14/98—published 4/8/98, effective 5/13/98]
- [Filed 5/15/98, Notice 3/11/98—published 6/3/98, effective 7/8/98]
- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 1/6/99]
- [Filed 1/20/00, Notice 12/1/99—published 2/9/00, effective 3/15/00]
- [Filed emergency 9/14/00—published 10/4/00, effective 9/14/00]
- [Filed 1/18/01, Notice 11/29/00—published 2/7/01, effective 3/14/01]
- [Filed 1/10/02, Notice 11/28/01—published 2/6/02, effective 3/13/02]
- [Filed 1/13/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]²
- [Filed emergency 7/13/05 after Notice 6/8/05—published 8/3/05, effective 7/13/05]
- [Filed 7/12/06, Notice 5/24/06—published 8/2/06, effective 9/6/06]
- [Filed 11/12/08, Notice 9/24/08—published 12/3/08, effective 1/7/09]
- [Filed ARC 8230B (Notice ARC 7969B, IAB 7/15/09), IAB 10/7/09, effective 11/11/09]
- [Filed ARC 8661B (Notice ARC 8498B, IAB 1/27/10), IAB 4/7/10, effective 5/12/10]
- [Filed ARC 9357B (Notice ARC 9240B, IAB 11/17/10), IAB 2/9/11, effective 3/16/11]
- [Filed ARC 9444B (Notice ARC 9343B, IAB 1/26/11), IAB 4/6/11, effective 5/11/11]

[Filed ARC 0063C (Notice ARC 0001C, IAB 2/8/12), IAB 4/4/12, effective 5/9/12]
[Filed ARC 0480C (Notice ARC 0377C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 1404C (Notice ARC 1292C, IAB 1/22/14), IAB 4/2/14, effective 5/7/14]
[Filed ARC 2278C (Notice ARC 2149C, IAB 9/16/15), IAB 12/9/15, effective 1/13/16]

¹ See IAB, Inspections and Appeals Department.

² Rescission of paragraph 132.14(2) “f” inadvertently omitted from 2/2/05 Supplement.

CHAPTER 145
IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

641—145.1(144D) Definitions. For the purpose of these rules, the following definitions shall apply:

“Advanced registered nurse practitioner” means an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.

“Department” means the department of public health.

“Director” means the director of the department of public health.

“Emergency medical care provider” means emergency medical care provider as defined in Iowa Code section 147A.1.

“Health care facility” means health care facility as defined in Iowa Code section 135C.1, a hospice program as defined in Iowa Code section 135J.1, an elder group home as defined in Iowa Code section 231B.1, and an assisted living program as defined in Iowa Code section 231C.2.

“Health care provider” means an individual, including an emergency medical care provider and an individual providing home- and community-based services, and including a home health agency, licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

“Home health agency” means home health agency as defined in 42 CFR Part 484.

“Hospital” means hospital as defined in Iowa Code section 135B.1.

“Legal representative” means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in Iowa Code section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or, if such intentions are unknown, by the patient’s best interests given the patient’s overall medical condition and prognosis.

“Patient” means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment is consistent with the individual’s goals of care.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

“Physician assistant” means a person licensed as a physician assistant under Iowa Code chapter 148C.

“Physician orders for scope of treatment form” or *“POST form”* means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient’s preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

[ARC 2280C, IAB 12/9/15, effective 1/13/16]

641—145.2(144D) Purpose. The purpose of this chapter is to establish the process for the development, review, modification, and posting of the POST form.

[ARC 2280C, IAB 12/9/15, effective 1/13/16]

641—145.3(144D) Responsibilities of the department.

145.3(1) The department shall prescribe the uniform POST form and shall post the form on the department’s Web site www.idph.iowa.gov for public availability.

145.3(2) The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment (POLST) paradigm form. The form shall have all of the following characteristics:

- a. The form shall include the patient’s name and date of birth.
- b. The form shall be signed and dated by the patient or the patient’s legal representative.
- c. The form shall be signed and dated by the patient’s physician, advanced registered nurse practitioner, or physician assistant.
- d. If preparation of the form was facilitated by an individual other than the patient’s physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.

e. The form shall include the patient's wishes regarding the care of the patient, including but not limited to all of the following:

- (1) The administration of cardiopulmonary resuscitation.
- (2) The level of medical interventions in the event of a medical emergency.
- (3) The use of medically administered nutrition by tube.
- (4) The rationale for the orders.

f. The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.

g. An incomplete section on the form shall imply the patient's wishes for full treatment for the type of treatment addressed in that section.

145.3(3) The POST form shall be reviewed by the department on an annual basis and may be reviewed more frequently at the discretion of the director. The POST form may be modified based on changes to the national POLST paradigm, input from interested parties, advances in evidence-based research or quality improvement processes, or clinical experience. The director shall annually designate a task force to review and recommend modifications to the POST form. The director shall review the task force recommendations and approve all final modifications to the POST form before it is posted on the department's Web site.

[ARC 2280C, IAB 12/9/15, effective 1/13/16]

These rules are intended to implement Iowa Code section 144D.2.

[Filed ARC 2280C (Notice ARC 2084C, IAB 8/5/15), IAB 12/9/15, effective 1/13/16]

CHAPTERS 146 to 149
Reserved

CHAPTER 203
STANDARDS FOR CERTIFICATE OF NEED REVIEW
[Prior to 7/29/87, Health Department[470] Ch 203]

641—203.1(135) Acute care bed need. Rescinded ARC 2297C, IAB 12/9/15, effective 1/13/16.

641—203.2(135) Cardiac catheterization and cardiovascular surgery standards.

203.2(1) Purpose and scope.

a. These standards are measures of some of those criteria found in Iowa Code sections 135.64(1)“a” to “q,” and 135.64(3). Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these cardiac catheterization and cardiovascular surgery standards include:

- (1) Proposals to commence or expand capacity to perform cardiac catheterization.
- (2) Proposals to add new or replace cardiovascular surgery services.
- (3) Any other applications which relate to cardiac catheterization or cardiovascular surgery.

203.2(2) Definitions.

a. Adult cardiac catheterization laboratory—a diagnostic facility exclusively for intracardiac or coronary artery catheterization on adults.

b. Pediatric cardiac catheterization laboratory—the same as adult cardiac catheterization laboratory, except exclusively for children and infants.

c. Cardiac catheterization—

(1) Intracardiac—a diagnostic study of the heart, and pulmonary arteries, or both, in which a small catheter passes through a vein or artery in the neck, leg or arm and advances into the great vessels, the heart or the pulmonary arteries. Through this procedure one can measure pressure within the heart and in adjacent veins and arteries, collect blood samples for blood gas analysis and inject radiopaque material, visualize cardiac and vessel anatomy. The procedure permits detection of congenital and acquired heart abnormalities, the study of ventricular function, the estimation of the orifice size, the placement of pacemakers, etc. Cardiac catheterization is incomplete without cineangiography, intracardiac pressure measurements, blood gas analysis and the ability to diagnose intracardiac shunts.

(2) Coronary artery catheterization—a diagnostic study of the coronary arteries, in which a small catheter passes through an artery in the leg, neck or arm into a coronary artery orifice. Intravascular pressure measurements are taken, and angiography of the coronary arteries is performed. Catheterization and cineangiography of the left ventricle are an integral part of this procedure.

d. Angiography.

The photographic recording of X-ray or radiologic images of blood vessels, in any part of the body—the heart, the head, the great vessels, the kidney, etc. In the procedure blood vessels are injected with a radiopaque chemical. Immediately following injection, X-rays are employed to image the path of the injected chemical. These X-ray images are then photographically recorded.

Angiocardiography.

The recording of moving X-ray images (fluoroscopic images) of the heart and great vessels. After injection of radiopaque chemicals, moving X-rays of the chemical's flow are projected on a screen called a fluoroscope. Moving pictures (cineangiography) or still pictures in sequence (serialography) may be recorded of the X-ray image.

e. Adult cardiovascular surgery—cardiovascular surgery exclusively for adults.

f. Pediatric cardiovascular surgery—cardiovascular surgery exclusively for infants and children.

g. Cardiovascular surgery—the services associated with and surgery performed for congenital or acquired diseases of the heart, great vessels, or pericardium, including the placement of travenous and epicardial pacemakers.

(1) Open heart surgery—cardiovascular surgery in which an incision of sufficient size is made to allow direct vision of the area. Open heart surgery requires temporary use of a heart-lung

(cardiopulmonary bypass) machine, as blood flow through the heart is greatly reduced or stopped altogether.

(2) Coronary artery surgery—surgery to correct inadequate blood flow to the heart through using revascularization techniques to bypass significantly obstructed coronary artery lesions.

h. Closed heart surgery—cardiovascular surgery in which a small incision and repairs are made without direct vision of the area.

203.2(3) Availability of services.

a. Minimum utilization—cardiovascular surgery (Iowa Code sections 135.64(1) “*c*,” “*g*,” “*h*”).

(1) Adult cardiovascular surgical programs should project an annual minimum rate of over 200, or no approval shall be granted. Higher case loads over 200 per annum, are encouraged.

(2) Pediatric cardiovascular surgical units should project a minimum of 100 pediatric heart operations after the first year, at least 75 of which must be open heart procedures.

(3) Combined adult/pediatric cardiovascular surgery units should project the minimum projected annual rates for both adult and pediatric surgery, or no approval shall be granted.

(4) Applicants should project utilization of cardiovascular surgery, catheterization and cardiac care units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within two hours surface travel time, if the applicant proposes an adult unit; and in consideration of pediatric cardiovascular surgery units currently operating in Iowa and bordering states within three hours surface travel time, if the applicant’s proposed unit is pediatric. If a combined unit is proposed both the two- and three-hour considerations for existing adult and pediatric units apply. The assumptions, data and methodology used to arrive at projections shall be provided in each application.

b. Expansions—cardiovascular surgery (sections 135.64(1) “*c*,” “*d*,” “*e*,” “*g*,” “*h*”).

(1) There should be no additional adult cardiovascular surgery units initiated unless each existing unit within two hours surface travel time is operating at a minimum of 350 open heart surgery cases per year.

(2) There should be no additional pediatric cardiovascular surgery units initiated, unless each existing unit within three hours surface travel time is operating at 130 surgeries per year. (If one team serves more than one institution the numbers for those institutions should be combined.)

(3) No additional cardiovascular surgery units should be approved which will reduce the volume of existing services below 350 procedures annually for adults and 130 annually, 75 of which are open heart, for pediatric units. The applicant will demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are within two hours surface travel time for adult services and within three for pediatric services.

(4) Adult cardiovascular surgical service units should be granted only to institutions which can demonstrate an unserved population base of 500,000 persons. An unserved area is one which lies outside of an existing unit’s service area.

(5) Pediatric cardiovascular surgical services should be granted unto institutions which can demonstrate an unserved population base of 2.5 million with 30,000 live births per year.

c. Minimum utilization—cardiac catheterization (sections 135.64(1) “*c*,” “*d*,” “*g*,” “*h*”).

(1) Adult cardiac catheterization laboratories should be projected to operate at a minimum of 300 catheterizations per annum.

(2) Pediatric catheterization laboratory units should project a minimum of 150 catheterizations annually.

(3) Combined units should meet each of the adult and pediatric standards.

(4) Applicant should project utilization of cardiac catheterization units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within two hours surface travel time if the proposed unit is for adults; and in consideration of pediatric cardiovascular surgery

units currently operating in Iowa, and bordering states within three hours surface travel time if the proposed unit is for children. If a combined unit is proposed both time considerations shall apply. The assumptions, data and methodology used to arrive at projections shall be provided in the application.

d. Expansions—cardiac catheterizations (sections 135.64(1)“c,” “d,” “e,” “g,” “h”).

(1) There should be no additional adult cardiac catheterization unit opened unless the number of studies per year in each existing unit within two hours surface travel time is greater than 500. No additional pediatric unit should be opened unless the number of studies per year in each existing unit within three hours surface travel time is greater than 250.

(2) There should be no additional cardiac catheterization units initiated which would reduce the volume of existing units below 500 adult catheterizations, 200 of which are intracardiac or coronary artery catheterizations, or 150 pediatric catheterizations, or both for combined units. The applicant must attempt and demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are those within two hours surface travel time for adults or three hours for pediatrics.

e. There should be no new cardiac catheterization unit open in any facility not performing open heart surgery (sections 135.64(1)“e,” “g,” “h,” “k”).

203.2(4) Costs.

a. Financial feasibility. (Sections 135.64(1)“f,” “i,” “p”) Cardiovascular surgery and catheterization equipment, and associated remodeling or construction should be depreciated over a period consistent with American Hospital Association schedules as limited by existing reimbursement payors.

b. Cost-effectiveness. Proposed new or replacement cardiac catheterization laboratories cost per catheterization and cardiovascular surgery services estimated costs per surgery should when compared to their peers demonstrate cost-effectiveness.

203.2(5) Accessibility. (Sections 135.64(1)“c,” “d”)

a. Cardiovascular surgery units and cardiac catheterization labs should be available 24 hours a day, seven days a week for emergency coverage.

b. Facilities with cardiovascular surgery/cardiac catheterization should have available 24-hour, seven days a week ambulance and emergency room service.

c. Travel distance should be within two hours surface travel time or less for 80 percent of the projected service area for pediatric services.

d. Cardiac catheterization and cardiovascular surgery service should be provided regardless of ability to pay, in consideration of those programs available in the state which serve the medically indigent.

203.2(6) Quality. (Sections 135.64(1)“i,” “k”)

a. Each surgery unit and cardiac catheterization lab shall demonstrate a reasonable set of criteria that are used in selecting appropriate candidates for surgery and catheterization.

b. Staffing minimums.

(1) The open heart surgery team should minimally consist of:

1. At least two certified or board eligible cardiovascular surgeons for the first 75 to 130 pediatric open heart surgeries. If pediatric surgery is performed, one surgeon must have special training and experience in surgery for congenital cardiac defects.

2. A board certified or board eligible adult or pediatric cardiologist(s). The latter only if pediatric surgery is performed, the former only if adult surgery is performed.

3. Board certified or board eligible anesthesiologist with special training in the management of cardiovascular cases' respiratory care.

4. Radiologist trained in the cardiovascular field.

5. Pathologist familiar with cardiac problems.

6. Specially trained in heart disease surgical nursing staff.

7. Cardiopulmonary bypass pump technicians.

8. Other ancillary staff as needed.

(2) Each applicant shall document that the proposed surgery unit can be so staffed when completed and operational.

c. Equipment and facilities. The applicant seeking to provide cardiovascular surgery should demonstrate that the following support services will be available:

- (1) General X-ray diagnostic facilities and facilities for emergency X-rays on a 24-hour basis.
- (2) A cardiac catheterization laboratory or angiography lab available on a 24-hour basis.
- (3) A cardiographics laboratory, with facilities for recording the following tests: EKG, vector cardiogram, phonocardiogram, echocardiogram, and exercise stress testing.
- (4) A supporting blood bank and hematology laboratory.
- (5) A microbiology laboratory.

d. Cardiac catheterization labs serving infants and children should have biplane angiographic equipment, either cineangiographic or cut film. Pediatric cardiac catheterization labs should be supervised by board certified or board eligible pediatric cardiologists; adult cardiac catheterization labs should be supervised by a board certified or board eligible adult cardiologist.

203.2(7) Continuity. (Sections 135.64(1) “g,” “h,” “i,” “k”)

a. The applicant should demonstrate that an attempt was made to solicit letters and to establish referral agreements from area hospitals and physicians to indicate a willingness to participate in a cooperative endeavor to refer to the proposed service.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. Institutions providing cardiovascular surgery services should include mechanisms for comprehensive medical followup including adequate medical records exchange.

203.2(8) Acceptability. (Section 135.64(1) “c”) Facilities with cardiovascular surgery and cardiac catheterization indicate a willingness to observe and respect the rights of patients as stated in the Patients Bill of Rights adopted by the American Hospital Association February 6, 1973, and reprinted in 1975.

641—203.3(135) Radiation therapy or radiotherapy standards.

203.3(1) Purpose and scope.

a. These standards are measures of some of those criteria 1 (a to q) and 3 found in Iowa Code section 135.64. Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these radiation therapy standards include:

- (1) Proposals to commence or expand the kind or capacity of megavoltage radiation therapy services.
- (2) Proposals to replace a radiation therapy unit.
- (3) Any other applications which relate to radiation therapy.

203.3(2) Definitions.

a. *Radiation modality.* The method of applying ionizing radiation in the treatment of patients with malignant disease. Externally applied modes.

Superficial X-ray therapy. The use of a conventional X-ray machine, which generates X-rays of up to 150 kilovolts (150 kv), to treat superficial lesions, such as skin cancer.

Orthovoltage X-ray therapy. The use of a conventional X-ray machine which generates X-rays between 150 kv up to and including 800 kvs. (These X-rays are of insufficient energy to avoid preferential bone absorption or to be “skin sparing”.)

Megavoltage therapy. The use of ionizing radiation in excess of one million electron volts. Energies above one million electron volts cause considerably less skin damage, increase depth dose markedly, and result in much less scatter from the therapeutic beam. Megavoltage machines are classified as follows:

1. Particle accelerators. These machines use a supply of electrons, which are accelerated into high energy beams. These beams are either caused to strike a target resulting in high energy X-ray production, or are used themselves as the treatment beam. Particle accelerators generate from 4 million up to as many as 45 million electron volts. Most common particle accelerators are the linear accelerator and the betatron.

2. Isotope sources (gamma ray teletherapy units).

Cobalt 60 units—emit gamma rays of approximately 1.2 million electron volts.

Cesium teletherapy units—utilize gamma rays of approximately 650 kv.

b. Megavoltage therapy unit. A piece of megavoltage therapeutic radiologic equipment.

c. Radiation therapy facility. A piece of megavoltage therapeutic radiologic equipment, the accompanying support equipment, and the physical space which houses the equipment.

d. Treatment (procedure). All those radiation fields applied in a single patient visit. Interstitial/intracavitary treatment counts as one visit.

e. Dosimetrist. A technologist who calculates, verifies, and develops maps for the dose distribution of radiation within the patient. The technologist is an essential member of the treatment planning team.

f. Radiation therapist (radiation oncologist). A physician who is board certified or board eligible in therapeutic radiology or in general radiology and who devotes full time to the practice of radiation therapy.

g. Radiation therapy technologist. An individual registered or eligible for registration by the American Board of Radiologic Technologists, or its equivalent, in radiation therapy.

h. Transverse tomograms. A special diagnostic X-ray procedure to determine the depth of the tumors inside the body.

i. Conjoint radiation oncology center (cancer center). A multi-institution, multidisciplinary network to provide radiation therapy for cancer patients. Each institution has an equal voice in decision making and direction of the work of the center. Integration of patient care management, common utilization of personnel and equipment, and a single system of records between center institutions assures optimal care regardless of entry portal. A common cancer registry of all patients treated by center hospitals is maintained.

j. Simulator. Used to reproduce the geometry of the external beam treatment technique, and consists of an isocentrically mounted X-ray source with X-rays passing per a collimation system to reproduce the therapy beam.

k. New patient. A patient receiving treatment for the first time at a given radiation therapy facility.

203.3(3) Availability.

a. Minimum utilization. (Sections 135.64(1) “c,” “g,” “h”)

(1) A megavoltage radiation therapy unit which is of relatively low energy, including small linear accelerators (4-10 MEVs), cobalt units and cesium teletherapy units, should serve a population of at least 200,000 persons, and treat at least 300 new patients annually within three years after initiation of the service.

(2) A megavoltage radiation therapy unit which is of medium energy, including linear accelerators of 12-20 MEVs should only be placed in facilities which are currently treating with megavoltage radiation therapy a minimum of 500 new patients annually.

(3) A megavoltage radiation therapy unit which is of high energy, including those linear accelerators of greater than 20 MEVs, should only be placed in facilities which are currently treating at least 750 new patients annually with megavoltage radiation therapy.

(4) To determine the number of new patients needing megavoltage radiation therapy annually in a service area, the following formula shall be applied:

Multiply the service area population times .00304 (3.04/1,000 population was the mean cancer incidence rate in 1976 in Iowa as filed by the Surveillance, Epidemiology, and End Results Program—SEER). A service area population is determined by each facility’s catchment area as reported in the most recent patient origin study of the Iowa department of public health.

Multiply this product times .5 (50 percent of all new cancer patients require radiation therapy).

(5) Institutions which form a conjoint oncology center should have at least 500 new patients annually who are amenable to megavoltage therapy.

b. Expansions. (Sections 135.64(1) “c,” “d,” “e,” “g,” “h”)

(1) There should be no additional megavoltage units of comparable size approved unless each existing megavoltage unit of that size within 90 minutes travel time of the proposed unit is performing at least 6,000 treatments per annum.

(2) Proposed new small megavoltage units within 90 minutes travel time of other small units must identify an unserved population base of 200,000 apart from that 200,000 currently served by institutions in the service area.

(3) Megavoltage treatments per annum should be projected by multiplying the number of projected new patients needing megavoltage therapy times 20.

(4) There should be no additional megavoltage radiation therapy units of comparable size within 90 minutes surface travel time of existing units which would reduce the projected volume of treatments per annum in existing units of comparable size to less than 6,000 treatments per annum and which would result in less than 300 projected new patients per annum for that existing unit. The applicant will attempt and demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur.

(5) New conjoint centers should be justified if more than 3,000 new patients are currently being treated by radiation therapy in an existing center.

c. A simulator which can accurately reproduce the geometry of each external beam technique should be available for every two megavoltage units in a radiation oncology department.

203.3(4) Costs.

a. *Financial feasibility.* (Sections 135.64(1)“f,” “i,” “p”)

(1) Megavoltage radiation therapy units should be depreciated over a period no shorter than that indicated by “Estimated Useful Lives of Depreciable Hospital Assets” published by the American Hospital Association. Associated remodeling should be depreciated according to generally accepted accounting principles and over a period no shorter than indicated in the above-named publication.

(2) Recognizing anticipated volume rate structure, and third party reimbursement, the applicant should present a breakeven analysis for the service. If the analysis shows breakeven will fail to occur after three years of the service’s initiation, the applicant should demonstrate why operating a service with the revenues below costs appears desirable.

(3) Charges will be based on actual or projected yearly treatments, but not less than 6,000 treatments.

b. *Cost-effectiveness.* (Section 135.64(1)“e”) Costs per unit of service should not exceed 10 percent of the state average unit cost for the service. If costs exceed 10 percent of that average the applicant shall demonstrate how the proposal represents the most cost-effective way to deliver the service and explain why the project was chosen instead of alternative ways of meeting the need for the service.

203.3(5) Accessibility. (Sections 135.64(1)“c,” “d”)

a. Travel distance shall be within 90 minutes auto travel time for the projected service area population.

b. Radiation therapy services should be provided regardless of ability to pay, in consideration of those programs available in the state which serve the medically indigent.

203.3(6) Quality. (Sections 135.64(1)“i,” “k”)

a. Minimum staffing requirements for radiation therapy facilities:

(1) Each facility shall have the services of radiation therapists which should be staffed at a level of one therapist per 400 new cancer patients needing treatment.

(2) Each facility shall have the services of radiation physicists which should be staffed at a level of one physicist per 800 new patients.

(3) Each facility shall have the services of radiation therapy technologists which should be staffed at a level of two technologists per megavoltage unit.

(4) Each facility should have the services of nurses.

(5) Each facility should have the services of dosimetrists which should be staffed at a level of one dosimetrist per 500 new patients.

b. Reserved.

c. Each conjoint center shall have at least two cancer biologists available.

d. Each conjoint center shall have one radiation technologist available for each simulator.

e. Replacement or development of orthovoltage treatment should not occur.

f. The long-range plans for radiation therapy services shall be submitted to the Iowa department of public health.

g. Multidisciplinary tumor boards should be established in all institutions housing megavoltage or orthovoltage machines.

h. A source of continuing education should exist within each conjoint center to reach participating community referral hospitals and physicians.

i. Each conjoint center should have a unified training program in radiation therapy for radiation therapists.

j. Each radiation therapy facility should offer psychosocial counseling services and nutritional counseling.

203.3(7) Continuity. (Sections 135.64(1) “g,” “h,” “i,” “k”)

a. The applicant should demonstrate that an attempt was made to solicit letters and establish referral agreements from area hospitals and physicians to indicate their willingness to participate in a cooperative endeavor to refer to the proposed service.

b. A minimum of 75 percent of all radiation therapy procedures should be projected to be done on an outpatient basis. If the applicant believes that 75 percent is inappropriate for its facility, then documentation which shows how its facility is different and why it sufficiently justifies not meeting this 75 percent outpatient rate, shall be provided.

203.3(8) Acceptability. (Section 135.64(1) “c”) Facilities with radiation therapy services shall document a willingness to observe and respect the rights of patients as stated in the “Patients Bill of Rights” adopted by the American Hospital Association February 6, 1973, and reprinted in 1975. Provisions for counseling services shall be available.

641—203.4(135) Computerized tomography standards.

203.4(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) “a” to “l.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these computerized tomography standards include:

- (1) Proposals to commence or expand the capacity of computerized tomography services.
- (2) Any other applications which relate to computerized tomography services.

203.4(2) Definitions.

a. Computerized tomographic (CT) scanner—a diagnostic tool which rotates about and which sends X-ray beams through cross-sectional layers of the body or brain. The X-ray beams which emerge from the body or brain are absorbed by a detector. Differences in the amount of X-rays absorbed by the detector indicate differences in tissue density. As the scanner rotates it takes many images of a cross-section. The images on the detector are transmitted to a computer which displays on a TV a reconstructed cross-sectional picture or slice. Contrast media is then usually injected to alter absorption of the detector, and the scan repeated; this is called enhancement.

- (1) Whole body scanner—one capable of imaging the entire body.
- (2) Head scanner—one capable of imaging only the brain and structures adjacent to the head.

b. Enhanced scan—a scan performed on a patient who has been treated with a contrast medium so that specific organs or areas of the body will be displayed more distinctly on the scan image.

c. Arteriography—imaging of blood vessels supplying the area of interest following injection of contrast media.

d. Pneumoencephalogram—the X-ray imaging of the skull and its content after introducing air or gas into the fluid-filled spaces within and around the brain and spinal cord.

e. Radioisotope brain scan—nuclear imaging of the concentration of radioactive isotopes which have been injected by biochemical or physiological actions into the brain, referred to later as nuclear brain scan.

f. H.E.C.T. (head equivalent C.T. unit)—a unit by which to measure the capacity of a CT scanner, and being defined as the average number of minutes necessary to perform a single unenhanced CT head study on a body scanner (including the room and equipment preparation time).

By comparing the average times for performing various types of scan procedures to the time necessary to perform an unenhanced head scan, the following table of equivalencies was determined:

On a head scanner—

One unenhanced head scan = 1.05 HECTs

One enhanced head scan = 1.26 HECTs

A procedure involving both types of scans = 1.85 HECTs

On a body scanner—

One unenhanced head scan = 1.00 HECTs

One enhanced head scan = 1.16 HECTs

A procedure involving both types of scans = 1.74 HECTs

One unenhanced body scan = 1.48 HECTs

One enhanced body scan = 2.00 HECTs

A procedure involving both types of scans = 2.75 HECTs

g. Operational capacity for a CT scanner—the operational capacity of a scanner is 3000 HECTs per year, plus or minus 10 percent.

h. Minimum shared-market area for a scanner (hereafter referred to as “area”)—the smallest geographic area within which any scanner installation is judged to affect the utilization rate of any other scanner is the community (as defined by the U.S. Bureau of the Census) or a Standard Metropolitan Statistical Area (where an area is so designated).

i. Emergency medical service (EMS) level II trauma service—the level of various services and staffing that qualify a facility to be designated by the emergency medical service division of the Iowa department of public health, using the facilities categorization criteria of such services that is in effect on the date of the enactment of this standard.

j. Shared service agreements—a multi-institutional arrangement for coordination or consolidation of services or sharing of support services. Among the various types of arrangements are referred services, purchased or joint contract services, multisponsored services and regional services.

k. CT consortia—a cooperative venture in which two or more institutions form a separate entity which is created for the purpose of owning, leasing, planning for, and maintaining the use of the scanner. Each facility in the consortium maintains its autonomy for all other services.

l. Applicant—an applicant may be a facility or a consortium of facilities within an area, or a physician or group of physicians.

m. General imaging procedures—a radiological diagnostic procedure performed on an X-ray machine or similar radiological diagnostic instrument.

n. Active oncology service—full, multidisciplinary cancer care, provided by a medical team that would include: surgery, gynecology, medical oncology, radiation oncology, pathology, diagnostic radiology and nuclear medicine. The surgery specialties that might be available would include: thoracic, abdominal, genitourinary and gynecological. The active oncology staff would include those specialists with training in oncology, hematology, and pathology and who spend at least half of their time at the institution.

o. Radiotherapy service—the therapeutic application of megavoltage radiation, using a linear accelerator or cobalt unit. The availability of such service at a hospital would necessitate personnel trained in the therapeutic application of radiology.

p. Chemotherapy service—the treatment of cancer by chemical agents.

203.4(3) Determination of need.

a. Applicants who do not now have a scanner, or who have a scanner and seek a certificate for one or more additional scanners.

(1) Applicants in areas with no other scanners.

i. Applicants must have performed at least 30,000 general imaging procedures during the past calendar year or 12 months, or

ii. Demonstrate that during the past calendar year or 12 months, the applicant performed diagnostic procedures equivalent to 1500 HECTs, using the following scale:

50% of the number of radioisotopic brain scans $\times 1.75$

25% of the number of cerebral angiograms/arteriograms $\times 1.75$

100% of the number of pneumoencephelograms $\times 1.75$

100% of the number of echoencephelograms $\times 1.17$

10% of the number of skull X-rays $\times 1.75$

100% of the number of patients referred to other facilities for CT diagnosis $\times 1.75$ (in the case of head scans) and 2.75 (in the case of body scans)

(2) Applicants in areas with one or more scanners.

i. An applicant must meet the requirement of need, described in 203.4(3) "a"(1), and

ii. The average level of utilization for scanners within the area was at least 3000 HECTs (plus or minus 10 percent) for the past calendar year or 12 months. The average level of utilization will be determined by adding the number of HECTs performed during the period at all area facilities divided by the number of facilities.

iii. The University of Iowa Hospitals and Clinics is specifically exempted from consideration under ii., directly above, because it has a service area that encompasses the entire state and adjoining states. The utilization statistics for the University Hospital will therefore neither affect nor be affected by Mercy Hospital, Iowa City. Additionally, the utilization statistics for scanners at the University of Nebraska Hospitals and Clinics and St. Joseph's Hospital (both in Omaha) will not affect the need for scanners at hospitals in Council Bluffs.

b. Replacement scanners—applicants who currently have a scanner.

(1) All applicants seeking to replace a scanner with another scanner, head or body.

i. The applicant must demonstrate that the applicant's use of the applicant's current scanner was at least at the operating capacity level during the last calendar year or 12 months, or

ii. Below the operating capacity level, but above 1500 HECT level, and the applicant must demonstrate reasons for permanently utilizing their scanner below operating capacity level and demonstrate that discontinuation of their scanner service would impair the applicant's ability to respond to the emergency needs of the area. Reasons for utilizing the scanner below the capacity should include a unique patient or procedure mix which would define the capacity level differently for this applicant.

(2) Applicants seeking to replace a head scanner with a body scanner.

i. The applicant must meet the requirements listed in 203.4(3) "a," and

ii. The applicant must meet the requirements for applicants seeking body scanners in 203.4(6), "Quality."

203.4(4) Costs—whole body and head scanners.

a. *Financial feasibility.* (Sections 135.64(1) "f," "i," "p") CT scanners should be depreciated over a period of not less than seven years. Remodeling shall be depreciated as appropriate by generally accepted accounting principles.

b. *Cost-effectiveness.*

(1) Applicants should demonstrate for themselves and the health care system that the most cost-effective method of providing CT services has been chosen. If a CT scanner which requires less than 20 seconds to produce one section is chosen, the applicant should demonstrate the scanner's cost-effectiveness over scanners requiring greater than 20 seconds to produce one section. If a CT scanner which requires 20 seconds to 2 minutes to produce one scan is chosen, the applicant should demonstrate the scanner's cost-effectiveness over scanners requiring greater than 2 minutes to produce one section.

(2) Proposed new and replacement CT scanner's cost per CT scan should, when compared to their peers, demonstrate cost-effectiveness.

203.4(5) Accessibility. (Sections 135.64(1) "c," "d")

a. All scanners must be available for emergency use 24 hours a day, less any down time. (Section 135.64(1) "d.")

b. Services should be provided to all patients regardless of the patient's ability to pay, taking into consideration the availability of those programs available in the state which serve the medically indigent.

c. Applicants will demonstrate a willingness to accept referrals for CT services from all area physicians.

d. All applicants must demonstrate through documented correspondence that an attempt has been made to form shared CT service agreements with all facilities within the area.

203.4(6) Quality. (Sections 135.64(1) "i," "k")

a. Data on use and costs of the CT scanners should be submitted to the Iowa department of public health as a condition of approval. (Sections 135.64(1) "a," "h")

b. All scanners.

(1) All applicants must demonstrate that they have on their staff or will acquire on their staff a full-time diagnostic radiologist, trained in the use of the CT scanner, or other physicians with comparable training and expertise.

(2) All applicants must document that they have on their medical staff individuals who are qualified to operate a scanner and interpret and act upon the diagnostic results. Such documentation may include reference to board certification, apprenticeship, academic credentials or such other qualifications that would prompt a medical staff to accept the responsibility for offering this new service. Applicants who intend to acquire staff with the desired expertise should provide signed letters of intent from the incoming medical personnel. Applicants who intend to upgrade the specialty skills of their staff should document a plan for training their current staff in the use of CT scanners.

(3) All applicants should have a complement of other diagnostic modalities available. Applicants seeking body scanners should also have available ultrasound, radionuclide scanning and conventional X-ray services.

(4) All applicants should have the facilities for treating the conditions diagnosed by imaging with the scanner or should demonstrate referral agreements with treatment facilities, in the event that the scanner will be used as a screening device.

(5) All applicants should have on their staff or available on a consultative basis the services of a biomedical engineer or radiation physicist, with special training in CT applications. These functions may also be provided by contract with the scanner manufacturer.

c. Head scanner only.

(1) Applicants for a head scanner should be a facility which qualifies for EMS Level II Trauma Service.

(2) If an applicant does not qualify for Level II Trauma Services, it must demonstrate that it has or will acquire a specialty practice in the field of diagnosing neurologic disorders, exclusive of neuropsychiatric disorders.

d. Body scanner only.

(1) Applicants for a body scanner must meet the criteria for EMS Level II Trauma Service.

(2) Applicants for a body scanner must be a hospital with 200 or more acute care beds. An applicant who does not meet the 200-bed rule may qualify for a body scanner if the applicant directly provides active oncology services with radiotherapy or chemotherapy treatment services, or both.

203.4(7) Continuity. (Sections 135.64(1) "g," "h," "i," "k")

a. The applicant should demonstrate that an attempt was made to solicit letters and to establish referral agreements from area hospitals and physicians to indicate a willingness to participate in a cooperative endeavor to refer to the proposed service.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. The applicant should demonstrate an emphasis on the availability of outpatient CT procedures, and that an appropriate percentage of all CT procedures on head and whole body units will be done on an outpatient basis.

203.4(8) Acceptability. (Section 135.64(1) "k") Providers of CT services should indicate a willingness to observe the rights of patients.

203.4(9) Rescinded effective 1/28/81.

641—203.5(135) Long-term care.**203.5(1) Purpose and scope.**

a. These standards are measures of criteria found in Iowa Code sections 135.64(1)“a” to “g.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these standards include applications to:

(1) Construct, develop, offer new, modernize, replace, renovate, or relocate intermediate care or skilled nursing care beds in nursing homes or hospitals.

(2) Expand bed capacity in intermediate care or skilled nursing care facilities or designated units in hospitals.

203.5(2) Definitions.

“*Intermediate care facility*” (ICF) means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.

“*Rural counties*” means all counties not designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

“*Skilled nursing facility*” (SNF) means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.

“*Urban counties*” means those counties designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

203.5(3) Availability and need. (Iowa Code sections 135.64(1)“c,” “d,” “e,” “g,” “h”)

a. The following formula shall be used as a means of projecting the approximate number of intermediate and skilled nursing care beds needed to serve the projected population five years into the future:

(1) Rural counties:

$[\text{.09}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$ equals total long-term care bed need

Combined SNF and ICF bed need equals $\frac{2}{3}$ (total long-term care bed need)

Assumed RCF bed need equals $\frac{1}{3}$ (total long-term care bed need).

(2) Urban counties:

$[\text{.07}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$ equals total long-term care bed need

Combined SNF and ICF bed need equals $\frac{2}{3}$ (total long-term care bed need)

Assumed RCF bed need equals $\frac{1}{3}$ (total long-term care bed need).

(3) Department of economic development population projections are adopted for use in the determination of long-term care bed need.

(4) The department of public health will calculate long-term care bed need figures annually, using population projections five years into the future.

b. For purposes of comparing “need” to “existing” beds in a given county, the following shall be considered in the calculation of “existing” beds:

(1) ICF and SNF beds licensed at freestanding facilities in the county.

(2) Additional ICF and SNF beds previously approved through certificate of need but not yet licensed.

(3) ICF and SNF beds in designated units in hospitals in the county.

c. The statistical calculation of bed need shall serve as a guideline for the health facilities council in reviewing need for the proposed long-term care beds. Other factors which may be considered by the council include, but are not limited to:

- (1) The availability and utilization of other ICF and SNF services in the county, or within the applicant's service area.
- (2) The availability and utilization of other long-term care services in nearby hospitals, such as skilled care available through the swing bed program.
- (3) The availability of supportive living arrangements which may or may not be licensed as residential care facilities (RCF).
- (4) The availability of home health and other in-home services.
- (5) The availability of other services to the elderly.
- (6) The availability of ICF and SNF services in neighboring counties.
- (7) Utilization by out-of-state residents of facilities in counties bordering other states, where the applicant provides evidence that in-migration of long-term care patients exceeds out-migration to the bordering state.
- (8) Programs and services directed at special populations whose needs cannot otherwise be met, or whose needs cannot be met cost-effectively at other facilities.

d. In documenting need for a project, the applicant shall identify the service area and target population, including a description of the methodology used by the applicant in determining need for the requested beds and the expected sources of referrals. The applicant shall document that the number of beds requested is appropriate to address the identified need. The applicant shall also identify how the target population is currently being cared for, and what hardship is being experienced by the absence of the proposed beds.

203.5(4) *Quality.* (Iowa Code sections 135.64(1) "i," "k") The applicant shall document that the applicant has contacted the health facilities division of the department of inspections and appeals to conform with physical standards, staffing requirements, and other licensing requirements to assess the potential for provision of quality care at the facility. When necessary, the applicant shall attempt to arrange an on-site visit to the facility to determine compliance with physical requirements, and shall provide documentation of this site visit or attempts to arrange such a site visit.

203.5(5) *Continuity.* (Iowa Code sections 135.64(1) "g," "h," "k")

a. The applicant shall document the relationship of the facility's proposed services to other health and long-term care services in the community such as physician and hospital services, habilitation, rehabilitation, transportation or other services. The facility should be capable of providing or arranging for the provision of a continuum of long-term care services.

b. The facility should be capable of providing or arranging for the provision of a comprehensive program of coordinated patient services. The applicant shall provide evidence of contracts for services, appropriate staffing patterns and ratios, and licensure of personnel as necessary.

203.5(6) *Accessibility and acceptability.* (Iowa Code sections 135.64(1) "c," "d")

a. Population subgroups which have traditionally been underserved, such as adolescents, the elderly, women, racial minorities, mentally ill, mentally retarded, and developmentally disabled should be considered when planning for or reviewing long-term care facilities.

b. The applicant shall document to what extent Medicaid patients will be served by the proposed beds, using past Medicaid utilization as an indicator or, in the case of a new facility, projecting anticipated Medicaid utilization.

203.5(7) *Costs and financial feasibility.* (Iowa Code sections 135.64(1) "e," "f," "i," "p")

a. The applicant shall identify capital and operating costs associated with the project, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. Construction costs shall be in line with construction costs of other similar projects.

c. The applicant shall provide budgets for the first three years of operation, including documentation of all assumptions used. The budget shall include anticipated sources of revenue, including the percentage of revenue from private pay, Medicaid, Medicare and other patient revenues.

d. Proposed charges per patient day should be justifiable when compared to current charges of other similarly licensed facilities in the applicant's service area, or other similar facilities elsewhere in the state. If charges are significantly higher or lower, the applicant shall provide a description of proposed programs or services which explain the difference in charges.

641—203.6(135) Bed need formula for mentally retarded. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

641—203.7(135) End-stage renal disease standards. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

These rules are intended to implement Iowa Code section 135.72.

641—203.8(135) Financial and economic feasibility.

203.8(1) Purpose and scope.

a. These standards are measures of some of those criteria 1¹(a to q) found in Iowa Code section 135.64. Criteria 1¹(a to q) which are measured by a standard are cited below:

Financial feasibility subrule 203.8(3), paragraph "b," criteria 1¹"b," "c," "p"; subrule 203.8(3), paragraph "c," criteria 1¹"f," "p"; subrule 203.8(3), paragraph "d," criteria 1¹"c," "f," "p," "q."

Economic feasibility subrule 203.8(4), paragraph "a," criteria 1¹"e," "f," "g," "i," "p," "q."

b. Certificate of need applications which are to be evaluated against these financial and economic feasibility standards include institutional health facilities, as defined in Iowa Code section 135.61.

203.8(2) Definitions.

a. Project. The remodeling, replacing or equipping of existing buildings, as well as the building or equipping of new structures.

b. Financial feasibility. The applicant's demonstration that it has the money, or that it can reasonably expect to obtain moneys equal to the estimated project costs, to any debt associated with the project, and to the annual expenses of providing the service, as well as the demonstration of overall institutional financial strength.

c. Financial ratio analysis. Evaluation of the financial position of an organization through creating indexes of income, revenue, assets, liabilities, etc. Financial ratios can be classified into liquidity, capital structure, activity and profitability ratios. Financial ratios measure financial feasibility.

(1) Net margin. The net income (after taxes if the applicant is not tax-exempt) minus nonoperating revenue divided by gross revenue.

(2) Net operating margin. Net income (after taxes if the applicant is not tax-exempt) minus nonoperating revenue divided by total operating revenue.

(3) Current asset ratio (current ratio). Current assets divided by current liabilities.

(4) Debt ratio. Total long-term debts divided by total fixed assets.

(5) Debt service coverage. The total of net income, interest expense, amortization of financing costs, and depreciation plus amortization and interest divided by the annual debt service.

(6) Days revenue in accounts receivable. Gross accounts receivable divided by gross patient revenue divided by 365.

d. Debt financing. Any portion of the cost of projects to be financed through borrowing either at the time the project is undertaken or at anytime subsequent thereto.

e. (Gross) revenue. Total of operating and nonoperating revenues.

f. Nonoperating revenues. Revenues not related to patient care or normal day-to-day operations, including unrestricted gifts, unrestricted endowments, income from the sale of a fixed asset, unrestricted income from a restricted or unrestricted fund, rental of facilities not used in operation, etc. (restricted funds are specifically excluded, unless expended during the accounting period, in which case they are accounted for either as operating or nonoperating revenues).

g. Operating revenues. Net patient service revenues (patient revenues minus deduction for charity, contractual and bad debt allowances) and other operating revenues.

h. Excess (or deficiency) of gross revenues over (or under) expenses. Net income.

- i. Excess (or deficiency) of operating revenues over (or under) expenses.* Net operating income.
- j. Economic feasibility.* The applicant's demonstration that its project will provide for the allocation of scarce resources within a community in a manner that is of maximum benefit to that community, in other words demonstration that the project will be cost-effective and will contain health care costs to the greatest extent possible.
- k. Expense.* An expired cost (cost = price paid for operations and assets, including leased assets vis-a-vis cash outlay, indebtedness incurred, or cash equivalent) incurred directly or indirectly in earning revenue. Expenditures may be expended over many years.
- l. Asset.* Economic potentials from which future benefits are expected to result, include leased capital equipment.
- m. Liabilities.* Debts or obligations.
- n. Gross patient revenues.* Patient service revenues before allowances for bad debt and charity and contracts.
- o. Debt service.* The payment of matured interest and principal; the outlay needed, supplied, or accrued for meeting such payments during any given accounting period; a budget or operating statement heading such items.
- p. Current assets.* Liquid assets which can be expected to directly or indirectly be converted into cash within one year or the operating cycle, whichever is longer (includes leased assets).

203.8(3) Financial feasibility analysis.

- a.* The applicant will provide financial feasibility analysis of the project's (facility's) past and projected costs, as requested by the Iowa department of public health.
- b.* The applicant shall show evidence of sound financial planning.
 - (1) If the sponsor has a long-range institutional plan, the project should be consistent with it. If the sponsor has no long-range institutional plan, the applicant shall demonstrate that the proposal helps meet the long-range needs of the community.
 - (2) The project should be consistent with the sponsor's three-year capital expenditure plan which all hospital and skilled nursing facilities must have.
- c.* The applicant shall demonstrate the financial feasibility of the services (institution) at completion and, shall show evidence of sound historical, financial, and operational management.
 - (1) The net operating margin should be positive. If a net loss is projected following completion of the project, an explanation of source funds should be given. Institutions funded by tax levy or endowment shall demonstrate that money from those sources has been historically applied to cover operating expenses if those institutions have a negative net operating margin.
 - (2) The net margin should be positive. If net loss is projected an explanation of source funds should be given.
 - (3) The past and projected current ratio should be at least 2:1.
 - (4) Past and projected debt service coverage ratio should be at least 2:1.
 - (5) The debt financing of a project should not increase the debt ratio above .8 unless debt service payments will derive from sources other than operating revenues.
 - (6) Days revenues in accounts receivable should not have been more than 65 days.
 - (7) If third party payment can be expected for the project, then some documentation indicating that the type of project which is proposed is generally third party reimbursable should be provided.
- d.* Sponsors shall show evidence of past efficient utilization. Standards (1) and (2) below apply to hospital project applications for:
 - Construction of new acute care beds;
 - Modernization or renovation of acute care beds/patient nursing units;
 - Conversion of acute care beds from one service use to another;
 - Addition to the square footage space of the hospital, where it might be architecturally feasible and cost-effective to convert excess bed space.
 - (1) Hospitals should have been no lower than 5 percent below the implicit target occupancy rate according to the bed need formula for the last year. Additionally hospitals with lower than target occupancy rates should show a trend during the last three years of increasing occupancy rates. This 5

percent refers to deviation on a scale of 1-100 percent and not to 5 percent of the target occupancy rate itself. Long-term care facilities should have had a 90 percent average occupancy for the last three years.

(2) Hospitals should have an average length of stay by service no greater than 10 percent above the average of their size category for the last three years.

Standards (1) and (2) above do not amend rule 641—203.1(135) acute bed care need methodology. But are additional measures of financial viability which supplement rule 641—203.1(135).

(3) Prior to the project's initiation, the full-time equivalent employees per adjusted patient day as reported in the most recent American Hospital Association Hospital Statistics should be no greater than 110 percent of the state average for hospitals of similar size. Categories of hospitals of similar size are:

Beds
6-24
25-49
50-99
100-199
200-299
300-399
400-499
500+

Adjusted patient day as used here is defined in Hospital Statistics, AHA, 1978.

Nursing homes shall meet regulations for licensure personnel requirements.

(4) Prior to initiation of a project, the cost per patient day of a hospital should be within 10 percent of the state average for hospitals within that size category. (See standard 203.8(3)“d”(3) for size categories.) An applicant's costs, which are incurred as a result of shared service contracts with other entities, and which are not charged to patients within the applicant's facility should not be included in the estimation of costs per patient day.

203.8(4) *Economic feasibility.*

a. The project as proposed shall be cost-effective.

(1) The applicant should demonstrate that the project represents the most cost-effective alternative. Such alternatives include, among others, new construction versus renovation and new service versus shared or contracted services.

(2) The applicant should demonstrate that of the financing methods available, the financing method chosen is the least costly alternative.

(3) Applicants shall demonstrate that construction or renovation costs are reasonable when compared to similar projects of the most recent year.

(4) The net operating margin should not exceed a percentage sufficient to provide for the organization's financial requirements, as defined in “Financial Requirements of Health Care Institutions and Services” (American Hospital Association, S031, February 1979), and limited by existing reimbursement payors.

(5) Facilities should show evidence that they have considered alternate energy sources within their institutions; and energy efficiency in project construction design.

b. Reserved.

This rule is intended to implement Iowa Code section 135.74.

¹ Iowa Code section 135.64(1).

641—203.9(135) Obstetrical services and neonatal intensive care unit standards. Rescinded ARC 2297C, IAB 12/9/15, effective 1/13/16.

641—203.10(135) Designated pediatric units standards. Rescinded ARC 2297C, IAB 12/9/15, effective 1/13/16.

641—203.11(135) Designated inpatient substance abuse treatment unit standards. Rescinded ARC 2297C, IAB 12/9/15, effective 1/13/16.

641—203.12(135) Magnetic resonance imaging services standards.

203.12(1) Purpose and scope.

- a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) “a” to “q.” Criteria which are measured by a standard are cited in parentheses following each standard.
- b. Certificate of need applications which are to be evaluated against these standards include:
 - (1) Proposals to commence or expand the capacity of magnetic resonance imaging services.
 - (2) Proposals to replace a magnetic resonance imaging unit.
 - (3) Any other applications which relate to magnetic resonance imaging.

203.12(2) Definitions.

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

“CT (computed tomography) procedure” means a CT study of a single site of anatomic interest during an individual patient visit.

“Magnetic resonance imaging (MRI)” means a diagnostic modality which employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“MRI procedure” means each discrete MRI study of one patient.

“MRI unit” means the essential equipment and facility necessary to operate one MRI system.

203.12(3) Availability and need. (Iowa Code sections 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other MRI units. Applicant must document a CT procedure volume of at least 4,500 CT procedures during the most recent calendar or fiscal year period. For purposes of calculating the volumes required, the applicant may use the combined total of more than one facility if the application involves joint ownership of the equipment, or the applicant provides evidence of referral arrangements for the proposed MRI service from the facilities whose procedure or patient volumes are included in the calculations.

b. Applicants in areas with one or more MRI units currently in operation or approved by certificate of need for operation.

- (1) Applicant must meet the requirement of need described in 203.12(3) “a” and
- (2) The other MRI unit(s) within the area must have been operating at a minimum of 3,000 MRI procedures annually (or 750 in three months), or proportionately more if the MRI unit runs more than one ten-hour shift.
- (3) If the annual utilization of the other MRI unit(s) within the area has been below 3,000 procedures, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the 3,000 procedure level must be demonstrated.

c. Applicants seeking to replace an MRI unit.

- (1) The applicant must demonstrate that the existing MRI unit has been operating at the level of at least 3,000 procedures during the most recent annual period.
- (2) If the applicant’s annual utilization has been below 3,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

d. Applicants seeking to add an additional MRI unit.

- (1) The applicant must demonstrate that the existing MRI unit(s) has been operating at the level of at least 3,500 procedures during the most recent annual period.
- (2) The applicant must demonstrate that the demand significantly exceeds the 3,500 procedures annually.

e. The provisions of subrule 203.12(3) shall be effective until June 30, 1995. Prior to that time the Iowa department of public health shall reconvene a task force to recommend continuing use of the need methodology outlined or develop a new or revised methodology to use in projecting future MRI needs. The department shall promulgate a new subrule 203.12(3) accordingly.

203.12(4) Quality and continuity. (Iowa Code sections 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed MRI unit must function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed MRI unit must have the following modalities on-site or through referral arrangements:

- (1) Ultrasound
- (2) Computed tomography — whole body unit
- (3) Angiography
- (4) Nuclear medicine
- (5) Conventional radiography

b. The proposed MRI unit must be located in a facility which has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by MRI. The following medical specialties must be available during MRI service hours on-site or by referral arrangements: neurology or neurosurgery, oncology and cardiology.

c. A proposal to provide new or expanded MRI must include satisfactory assurances that the services will be offered in a physical environment that conforms to federal standards, manufacturer's specifications, and licensing agencies' requirements.

d. The applicant must provide evidence that the proposed MRI equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for MRI shall document that the necessary qualified staff are available to operate the proposed unit. The following minimum staff shall be available to the MRI unit:

1. A full-time board eligible or board certified radiologist or nuclear medicine imaging physician or any other board eligible or board certified licensed physician whose exclusive responsibility for at least a two-year period prior to submission of a certificate of need request has been in the acquisition and interpretation of clinical images. This individual shall have a knowledge of MRI through training, experience, or documented postgraduate education. The individual shall also have training with a functional MRI facility.

2. Qualified engineering personnel, available to the institution during MRI service hours, with training and experience in the operation and maintenance of the MRI equipment.

3. Diagnostic radiologic technologists or other certified technologists with expertise in computed tomography or other cross-sectional imaging methods, at a staffing level consistent with the hospital's expected MRI service volume.

4. Other appropriate physicians shall be available during MRI service hours in clinical specialties such as neurology or neurosurgery, oncology and cardiology.

f. The applicant shall demonstrate how emergencies within the MRI unit will be managed in conformity with accepted medical practice.

203.12(5) Accessibility and acceptability. (Iowa Code sections 135.64(1) "c," "d")

a. MRI facilities should have adequate scheduled hours to avoid an excessive backlog of cases and MRI shall be available 24 hours a day, seven days a week on an emergency (on-call) basis.

b. Selection of patients for clinical MRI studies must guarantee equal access to all persons regardless of insurance coverage or ability to pay.

c. In addition to accepting patients from participating institutions, facilities performing clinical MRI procedures shall accept appropriate referrals from other local providers. These patients shall be accommodated to the extent possible by extending the hours of service and by prioritizing patients according to standards of need and appropriateness rather than source of referral.

203.12(6) Costs and financial feasibility. (Iowa Code sections 135.64(1) "e," "f," "i," "p")

a. The applicant shall identify capital and operating costs associated with the proposed MRI unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. The applicant shall provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

c. The applicant must document its projected average cost per procedure and charge per procedure for the first three years. Charges for MRI should be reasonably related to service cost, and comparable to MRI charges at other facilities in the state.

d. The applicant shall demonstrate that alternatives were considered and the proposed application is the most cost-effective and will accomplish the goals of the project.

e. To provide a data base for evaluation of subsequent MRI applications by the health facilities council, applicants granted a certificate of need shall provide to the certificate of need office the following data upon request of the Iowa department of public health. The department will request the following data on an annual basis.

1. Total number of procedures performed;
2. Total number of inpatient procedures;
3. Total number of outpatient procedures;
4. Average charge per procedure;
5. Hours of operation of the MRI unit;
6. Total revenues and expenses for the MRI unit for the year.

This rule is intended to implement Iowa Code section 135.64.

641—203.13(135) Positron emission tomography services standards.

203.13(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) “a” to “q.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of positron emission tomography services.
- (2) Proposals to replace a positron emission tomography unit.
- (3) Any other applications which relate to positron emission tomography.

203.13(2) Definitions.

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

“CT (computed tomography)” means an imaging method in which a cross-sectional image of the structures in a body plane is reconstructed by a computer program from the X-ray absorption of beams projected through the body in the image plane.

“Cyclotron” means an apparatus for accelerating protons or neutrons to high energies by means of a constant magnet and an oscillating electric field.

“MRI (magnetic resonance imaging)” means a diagnostic modality which employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“Radiopharmaceutical” means a radioactive pharmaceutical used for diagnostic or therapeutic purposes.

“PET procedure” means an image-scanning sequence derived from a single administration of PET, equated with a single injection of the tracer.

“Positron emission tomography (PET)” means an imaging method in which positron-emitting radionuclides, which are produced either by a cyclotron or generator, and a nuclear camera are used to create pictures of organ function rather than structure. PET installations generally take one of two forms: a PET scanner using only generator-produced tracers (basic PET unit), or a PET scanner with a cyclotron (enhanced PET unit).

“SPECT (single photon emission computed tomography)” means a camera-based imaging system using the radionuclides in the routine practice of nuclear medicine.

203.13(3) Availability and need. (Iowa Code sections 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other basic or enhanced PET units.

(1) Applicants should demonstrate a reasonable potential utilization of a PET unit based on diversified inpatient and outpatient case mix thresholds including:

1. Intracranial cases
 - Primary brain tumors 50/year
 - Metastasis 100/year
 - Cerebral vascular disease 200/year

- Organic brain disease and dementia/psychiatric diagnoses (including epilepsy-seizure disorders) 500/year
- Spinal 100/year
- 2. Cardiovascular cases
 - Ischemic heart disease (including acute and chronic infarction) 1200/year
- 3. Neoplasms (head, neck, thorax (excluding heart), abdomen, pelvic and musculoskeletal 1300/year
- 4. If the application is for a basic unit, the above case mix and numbers should be adjusted according to the proposed use of the unit.
- (2) Applicants should have other diagnostic capabilities, on-site or through referral arrangements, with appropriate volumes including:

	<u>Proposed Threshold</u>
Nuclear medicine imaging services	7,000
Single photon emission computed tomography (including brain, bone, liver, Gallium and Thallium stress)	2,000
CT	10,000
MRI	3,000
Cardiac angiography	1,500
Cardiac ultrasound	7,000

(3) Applicants must demonstrate secondary and tertiary service capability, on-site or through referral arrangements, including cardiac surgery, cardiology, internal medicine, general surgery, hematology/oncology, neurology, pathology, thoracic surgery and psychiatry.

b. Applicants in areas with one or more basic or enhanced PET units currently in operation or approved by the certificate of need program for operation.

(1) Applicant should have access to cyclotron-produced radiopharmaceuticals.

(2) Existing PET units within the area (whether basic or enhanced) must have been operating at a minimum of 1000 PET procedures during the most recent annual period as reported to the certificate of need program according to 203.13(6) “e.”

c. The provisions of subrule 203.13(3) shall be effective until June 30, 1995. Prior to that time the Iowa department of public health shall reconvene a task force to recommend continuing use of the need methodology outlined or develop a new or revised methodology to use in projecting future PET needs. The department shall promulgate a new subrule 203.13(3) accordingly.

203.13(4) *Quality and continuity.* (Iowa Code sections 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed PET unit must function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed PET unit must have the following modalities (and capabilities) on-site or through referral arrangements:

- (1) Computed tomography — (whole body)
- (2) Magnetic resonance imaging — (brain and whole body)
- (3) Nuclear medicine — (cardiac, SPECT)
- (4) Conventional radiography

b. The proposed PET unit must be located in a facility which has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by PET. The following medical specialties must be available during PET service hours on-site or by referral arrangements: cardiology, neurology, neurosurgery, oncology, and psychiatry.

c. A proposal to provide new or expanded PET must include satisfactory assurances that services will be offered in a physical environment that conforms to federal standards, manufacturer’s specifications, and licensing agencies’ requirements. The following areas are to be addressed:

(1) Quality control and assurance of radiopharmaceutical production of generator or cyclotron-produced agents;

- (2) Quality control and assurance of PET tomograph and associated instrumentation;
- (3) Radiation protection and shielding;
- (4) Radioactive emissions to the environment.

d. The applicant must provide evidence that the proposed PET equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for PET shall document that the necessary qualified staff are available to operate the proposed unit. The applicants shall document the PET training and experience of the staff. The following minimum staff shall be available to the PET unit:

(1) One or more nuclear medicine imaging physician(s) available on a full-time basis to the PET unit who have been licensed by the state for the handling of medical radionuclides and whose primary responsibility for at least a one-year period prior to submission of the certificate of need application has been in acquisition and interpretation of tomographic images. This individual shall have knowledge of PET through training, experience, or documented postgraduate education. The individual shall also have training with a functional PET facility.

(2) Qualified PET radiochemist or radiopharmacist personnel, available to the facility during PET service hours, with at least one year of training and experience in the synthesis of short-lived positron-emitting radiopharmaceuticals. The individual(s) shall have experience in the testing of chemical, radiochemical, and radionuclidic purity of PET radiopharmaceutical syntheses.

(3) Qualified engineering and physics personnel, available to the facility during PET service hours, with training and experience in the operation and maintenance of the PET equipment.

(4) Qualified radiation safety personnel, available to the facility at all times, with training and experience in the handling of short-lived positron-emitting nuclides.

(5) Certified nuclear medicine technologists with expertise in computed tomographic nuclear medicine imaging procedures, at a staffing level consistent with the proposed center's expected PET service volume.

(6) Other appropriate physicians shall be available during PET service hours which may include certified nuclear medicine technologists, computer programmers, nurses, and radiochemistry technicians.

f. The applicant shall demonstrate how emergencies within the PET unit will be managed in conformity with accepted medical practice.

203.13(5) *Accessibility and acceptability.* (Iowa Code sections 135.64(1) "c," "d")

a. PET facilities should have adequate scheduled hours to avoid an excessive backlog of cases.

b. Selection of patients for clinical PET studies must guarantee equal access to all persons regardless of insurance coverage or ability to pay.

c. In addition to accepting patients from participating institutions, facilities performing clinical PET procedures shall accept appropriate referrals from other local providers. These patients shall be accommodated to the extent possible by extending the hours of service and by prioritizing patients according to standards of need and appropriateness rather than source of referral.

203.13(6) *Costs and financial feasibility.* (Iowa Code sections 135.64(1) "e," "f," "i," "p")

a. The applicant shall identify capital and operating costs associated with the proposed PET unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. The applicant shall provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

c. The applicant must document its projected average cost per procedure and charge per procedure for the first three years. Charges for PET should be reasonably related to service cost and comparable to PET charges at other facilities in the state.

d. The applicant shall verify whether the service is eligible for reimbursement by public and private third-party payers.

e. The applicant shall demonstrate that alternatives were considered and the proposed application is the most cost-effective and will accomplish the goals of the project.

f. To provide a data base for evaluation of subsequent PET applications by the health facilities council, applicants granted a certificate of need shall provide to the certificate of need office the following data upon request of the Iowa department of public health. The department will request the following data on an annual basis.

- (1) Total number of procedures performed;
- (2) Total number of inpatient procedures (indicate type of procedure);
- (3) Total number of outpatient procedures (indicate type of procedure);
- (4) Average charge per specific procedure;
- (5) Hours of operation of the PET unit;
- (6) Total revenues and expenses for the PET unit for the year.

This rule is intended to implement Iowa Code section 135.64.

[Filed emergency 7/26/78—published 8/23/78, effective 7/26/78]

[Filed 2/1/80, Notice 8/8/79—published 2/20/80, effective 3/26/80]

[Filed 6/6/80, Notice 2/6/80—published 6/25/80, effective 7/30/80]

[Filed emergency 9/10/80—published 10/1/80, effective 9/10/80]

[Filed emergency 11/7/80—published 11/26/80, effective 11/7/80]

[Filed 12/5/80, Notice 10/15/80—published 12/24/80, effective 1/28/81]

[Filed emergency 4/9/81—published 4/29/81, effective 4/10/81]

[Filed 6/2/81, Notice 4/15/81—published 6/24/81, effective 8/1/81]

[Filed 3/22/84, Notice 12/7/83—published 4/11/84, effective 5/16/84]

[Filed 11/14/85, Notice 9/25/85—published 12/4/85, effective 1/8/86]

[Filed 3/20/86, Notice 1/29/86—published 4/9/86, effective 5/16/86]

[Filed 5/15/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 5/11/90, Notice 3/7/90—published 5/30/90, effective 7/4/90]

[Filed ARC 2297C (Notice ARC 2177C, IAB 9/30/15), IAB 12/9/15, effective 1/13/16]